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LAW FOR MEDICAL MEN

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LAW FOR MEDICAL MEN

A BOOK FOR PRACTITIONERS

CONTAINING

EXTRACTS FROM ACTS OF PARLIAMENT
INTERESTING TO MEDICAL MEN

BY

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Workmen's Compensation Act, etc.



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PREFACE

I ADHERE to the usual custom of explaining briefly in a Preface the reasons for the publication of a book. The following pages were written in response to a request of the publishers that I would produce a work on the extra-professional position, and duties, of medical men. They gave me an outline sketch of the subjects which they thought should be included, and one of the first of these was "Notes on the Laws affecting Medical Men." On attempting to write such notes I soon found that the subject was so large as to deserve somewhat fuller treatment than could be given to it in an ordinary chapter, and I therefore attempted to expand the idea, and give as complete an exposition as I could of the laws that affect medical men. How far I have succeeded in my endeavours I must leave to my readers and critics to judge. On my own behalf I can only urge that I have spared no pains and trouble to make what I have written as accurate as possible. It would be expecting too much to hope that it is complete, and I shall be grateful for all suggestions to insert in a future edition, should such ever be required.

The work has been some time in preparation, owing to the exigencies of a somewhat busy life, and, I fear, even in its final stage has a somewhat scrappy appearance in correspondence with the scraps of time I could devote to it.

Inasmuch as the work consists very largely of quotations, I have felt compelled to describe myself occasionally as the editor and occasionally as the author; but I do not think any confusion has been caused thereby. May I once again beg any reader to make full use of the index when consulting my pages.

To complete the scheme sketched out by Messrs. Churchill, I have a companion volume in hand containing "ethics and business" for medical men, a greater part of which is completed, and I hope may reach publication in due course.

FRED. J. SMITH.

HARLEY STREET, W.

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INTRODUCTION

THE Insurance Act of the Chancellor of the Exchequer in 1911 has caused a great amount of discussion and acute differences of opinion as to its merits and objects. Amongst other expressions of opinion, there are many which stamp it as the conversion of the Medical Profession into a branch of the Civil Service of the State. Perhaps this is not very far from the ultimate truth, but if so, it does but raise the Act in question to be the coping-stone of a building which has been growing for a hundred years or more, slowly at first, but with a rapidly accelerated progress in later years, for a general survey of the legislation of the last century shows that medical men are becoming more and more interested (as active agents) in the great bulk of the recent Acts of Parliament which are now becoming so numerous and intricate that it is quite impossible for any man to master the full details of them all, and extremely difficult for officials to be certain whether they may exercise final authority under a given Act or whether they may not find themselves struggling against a superior authority under another amending Act.

It is not without interest to glance briefly at the course of events in this movement, for the retrospect will afford a clue to the purpose and arrangement of this division of my book.

History is said to have a knack of repeating itself, and this applies very well to our present subject. In ancient records and in reports on all primitive people, we always find that the earliest efforts of the healing art showed themselves alongside of, or combined with, the religious customs of the people ; as civilisation advanced there was to be observed a severance of the two, and medicine and religion were made to serve two distinct purposes in the State. Does not the history of medicine in Europe and in England faithfully reproduce these features, no doubt with much overlapping and some confusion in detail, but in broad outlines with the same result ?

In early Britain the Druids had composite healing and religious functions ; later on the residents of monasteries and other religious houses became almost the sole representatives of the

healing art and repositories of its mysteries, so far as it could be applied to the general mass of the population. Partly cotemporaneous with, partly later than these, we have the graduates of the very early universities becoming so to speak the leaders of medical thought, and banding themselves together more or less to form what we term schools of medicine, always, however, be it noted, with their own interests more at heart than the welfare of the common populace or of the State.

The first stone in our modern democratic building may perhaps have been said to have been laid early in the sixteenth century in the shape of the charter granted by Henry VIII. to the Royal College of Physicians, to be followed in the next century by the charter granted to the Society of Apothecaries, the latter distinctly a broader and more democratic measure than the former. These Charters mark the commencement* of the modern history of medicine, and in them is to be found a distinct recognition of a mutual duty and obligation between the profession on the one hand and the State on the other, though even here internal discipline of the profession is the keynote of the Charters, with no mention of benefit to the profession from the State.

That this was the case need not, however, excite our surprise when we reflect upon the scantiness of the real knowledge of diseases, their causes and cures, which even the most learned of that time possessed. During the course of the seventeenth and eighteenth centuries this thick veil of ignorance was being very slowly pierced by the earnest endeavours of many workers whose names will for ever be honoured by our profession. Of these I mention only Dr. Jenner, whose advocacy (one can hardly use the word discovery) of vaccination, made in 1798, led in 1813 and 1814 to abortive efforts to lay a stone in our legislative edifice; the Bills were thrown out and this particular stone was not laid till 1840, when the first Vaccination Act was passed.

The first stone of the building in the nineteenth century was laid in 1815 in the shape of the Apothecaries Act, entitled: "*An Act for better regulating the practice of Apothecaries throughout England and Wales. 12 July, 1815.*" The preamble to which runs:—

"Whereas His Majesty King James the First . . . did grant . . . to the Faculty of Apothecaries freemen of the

* The Charters of the mediæval universities hardly affect the argument.

Mystery of Grocers [and others] *that they might and should be one Body Corporate . . . [as] the Society of Apothecaries of the City of London . . . and whereas some of the clauses . . . in the Charter, have been found inadequate . . . be it enacted . . . [Sec. II. and Sec. III. The Master and Wardens may enter the shops of apothecaries to examine their drugs, test them and burn them if not up to standard, and stop traders in bad drugs from acting as such all over England and Wales. Sec. V. uses the words "for the further protection, security and benefit of His Majesty's subjects" the Society may take action against apothecaries unfaithful to, or ignorant of, their trust].*

There can be no doubt from these quotations that the Government of the day was now really awakening to the fact that national health is a national asset of no mean value. The Act by the way, does not make any monetary offer to the profession for attempting to preserve this national asset.

In 1832 we find the Anatomy Act (*vide* p. 81) added to the Statute Book, and thus was laid another stone in our building. The Act is a recognition of the ignorance spoken of above, and it a real though perhaps somewhat grudging attempt to do something for the profession and to help its efforts towards enlightened knowledge. Its preamble is as follows:—

"Whereas a knowledge of the causes and nature of sundry diseases which affect the Body, and of the best methods of treating and curing such Diseases, and of healing and repairing divers Wounds and Injuries to which the Human Frame is liable, cannot be acquired without the aid of Anatomical Examination: And whereas the legal supply of Human Bodies for such Anatomical Examination is insufficient fully to provide the means of such Knowledge . . . [great grievous crimes, including murder, had ensued]. And whereas therefore it is highly expedient to give Protection, under certain Regulations, to the Study and Practice of Anatomy, and to prevent as far as may be such great and grievous Crimes, be it therefore enacted . . ."

(*Vide* p. 81 for other portions of and comments on this Act.)

From the accession of Queen Victoria in 1837, Acts for the better preservation of the health of the nation as a whole become steadily more numerous. In 1840 the first Vaccination Act was successfully steered through both Houses and became law, and in 1848 the first Public Health Act (as such) was passed. In 1851 and 1853 Lodging House Acts were passed, in 1855 the Diseases Prevention Act and Nuisance Removal Act became law; in 1858 the Medical Act was framed, with the establishment of the General Medical Council; in 1878 a Factory and

Workshops Act was deemed necessary, the forerunner of many Acts dealing with the health of workers.

We are now fast arriving at the (at present) top storeys of the edifice of State medical legislation. The Employers Liability Act, the Workmen's Compensation Acts, the Education Acts, the Children Acts, do but serve to point more and more clearly the position I have assigned to the Insurance Act.

* * * * *

In the following pages an attempt has been made to codify to some extent, and to arrange in some order these numerous Acts and their still more numerous amending Acts. There is no particularly logical sequence of subjects or Acts, so the arrangement of them is purely artificial and accidental so to speak, and the reader is advised to make full use of the index which I have endeavoured to make as full and explanatory as possible. Notes and comments on the Acts are sometimes dispersed through an Act, sometimes reserved for the end of it, but in all cases I have endeavoured to make the clearest possible distinction between sections of Acts, and comments on them by printing quotations from Acts in italic type (even simple periphrases not being thus distinguished); I have also printed statutory rules and orders in smaller type; what therefore is in italic or in small type is authoritative, what is in ordinary type is open to criticism and dispute, and I must take all responsibility for the opinions thus expressed.

UNIVERSITY OF WALES.

It was only when too late for insertion in its proper place on pp. 14, 15 and 31, that I found that the University of Wales has received due recognition for its medical degrees from the Government:

By "1 & 2 Geo. V. c. 43. *An Act to extend the provisions of the Medical Acts to the University of Wales and to Graduates in Medicine and Surgery thereof.* Dec. 16, 1911," the degrees are recognised as forming a complete qualification (*vide* p. 30).

The General Medical Council also, in June, 1912, recommended that the University of Wales should be granted a representative on the council.

LAW FOR MEDICAL MEN

CHAPTER I

ACTS RELATING TO OUR LICENSING BODIES

THE corporations themselves are naturally divided into two groups, viz., universities, and simple licensing bodies. It is not my intention to write a history of either group, that would indeed require two or three large volumes. I shall merely give a very brief outline of the legislation bearing on the origin of each corporation, and point out the authority which it carries over its medical graduates and diplomates; I shall endeavour to make references as accurate as possible, so that any reader may know where to appeal to for more complete information. In the case of the older corporations the original documents are, of course, somewhat difficult of access and of translation, but the charters of the newer ones and the Acts of Parliament referring to them are more easily obtainable.

SUB-GROUP I.

The Universities.

ENGLAND.

In England there are ten universities, viz.: Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London Manchester (Victoria University), Oxford and Sheffield.

BIRMINGHAM.

The origin of the Birmingham University would seem to be Mason College which was founded in 1875. In 1900 the University of Birmingham received its charter under:—

"63 Vic. c. xix. An Act to transfer all the property and liabilities of Mason University College in the City of Birmingham to the University of Birmingham. . . . and for other purposes. May 25, 1900."

Under this Act ordinances have been framed for all purposes,
M.L.

2 ENGLISH UNIVERSITIES—BRISTOL—CAMBRIDGE

including discipline. To this Ordinance 76 is devoted, and runs as follows :—

"The Council may on the recommendation of the Senate revoke the degree or degrees, diplomas, certificates and distinctions, and all privileges connected therewith of any graduate of the university who shall be convicted of felony or of any indictable misdemeanour, or whose name shall have been removed for misconduct by a properly constituted legal authority from any official register or roll of members of the profession to which he belongs, and may restore on cause being shown any person whose degree has been revoked to the degree he previously enjoyed without further examination."

BRISTOL.

In 1876 University College, Bristol, was incorporated under the Companies Acts, 1862 and 1867 ; in 1893 the medical school of Bristol was incorporated with the college. Later a charter was granted by His Majesty King Edward VII. constituting in the City of Bristol an university, and then finally was passed in 1909.

"9 Edw. 7, c. 42. An Act to dissolve University College, Bristol, and to transfer all the property and liabilities of that college to the University of Bristol, and for other purposes."

The remainder of the Act is of no general interest, in its main directions it follows the Act for Sheffield University (*q.v.* p. 9).

Clause 3 of the charter of the University runs as follows :—

"Sub-sec. (6). The university shall have the power on good cause shewn to deprive persons of any degree, diploma or certificate or distinction granted to or conferred upon them by the University."

CAMBRIDGE.

It would appear that the University of Cambridge essentially arose out of the foundation of Peterhouse College in the year 1284. A new code of statutes for the university was approved by Queen Victoria in Council in 1882 (*Whitaker*).

The enormous development of the Cambridge medical school is one of the outstanding features of the last five and twenty years, but has not been associated with much Parliamentary legislative activity. *"19 & 20 Vic., c. 88, An Act to make further provision for the good government and extension of the University of Cambridge, of the colleges therein and of the College of King Henry the Sixth at Eton—or the Cambridge University Act, 1856,"*

seems to be the only Act definitely relating to Cambridge until 1877, when "40 & 41 Vic., c. 48. *An Act to make further provision respecting the Universities of Oxford and Cambridge and the colleges therein, Aug. 10, 1877,*" was passed. 43 & 44 Vic. c. 11, also refers to the same universities.

Prior to 1896 the powers which Cambridge University possessed in the direction of discipline over its graduates seem to have been unsatisfactory, for in 1895 the Council of the Senate presented an amended report to the Senate in the following terms :—

" Questions having arisen as to the power of the University to deprive of their Degrees graduates who have been convicted of grave crimes which render them unfit to be members of the University, the Council of the Senate have been advised by the Counsel to the University that the University has such power, but that there is room for doubt as to the manner in which it should be exercised. The Council think it undesirable that there should be any uncertainty about this matter.

" They therefore recommend that the Statutes of the University be amended by the addition of the following clause to Statute A, Chapter VII. :

" If the Chancellor and the sex viri or four at least of their number, of whom the Chancellor shall be one, shall report to the Council of the Senate that it has been proved to their satisfaction that a graduate of the University has been convicted of a crime for which he has been sentenced to penal servitude or imprisonment and that such crime is one which renders him unfit to be a graduate of the University, then the Council of the Senate may propose to the Senate a Grace depriving him of his Degree or Degrees and of all privileges enjoyed by him as a graduate of the University, and in case the Grace is approved by the Senate he shall be deprived accordingly."

This amended report was approved by Her Majesty in Council and incorporated in the Statutes of the University in 1896 (*vide* Statutes cd. 1904, p. 26), and under it sundry deprivations have been made.

DURHAM.

This University was established by the Dean and Chapter of Durham under the authority of an Act of Parliament passed in 1832. In the following year the College of Medicine, Newcastle, was incorporated with articles of association, and in 1871 the

Armstrong College was similarly incorporated. A Royal Charter was granted in 1897.

In 1908 an Act, "8 Edw. 7, c. 20," was passed entitled: "*An Act to make further provision with respect to the University of Durham*," the preamble of which runs:—

"Whereas it is expedient to reconstitute the University of Durham, and for that purpose to appoint a Statutory Commission . . ."

The Act provided for the affiliation (under conditions) of any college within the counties of Northumberland, Durham, Cumberland and Westmorland, and of the technical college of the borough of Sunderland.

Details of this Act and the regulations of the Commissioners under it are of no general interest.

As regards the disciplinary powers of the University of Durham over its graduates these are explicitly provided for by the Charter of 1897, which, indeed, consists of only four clauses. Of these, 3 and 4 run as follows:—

"3. And whereas doubts have arisen whether the Warden, Masters and Scholars of the University of Durham have power to cancel, revoke, annul, or take away any degree or title conferred by the University of Durham upon any person who shall have been proved to be unworthy to be a Member or Graduate of a University and whether such power was at the date of the Charter first hereinbefore recited, and now is a right or privilege incident to a University established by Royal Charter;

"4. And whereas it is expedient to remove such doubts as aforesaid and to declare and confirm in and to the Warden, Masters and Scholars of the University of Durham the power to cancel, revoke, annul or take away any degree or title conferred or to be conferred upon any person whom the Warden, Masters and Scholars of the University of Durham shall for good and weighty reasons as hereinafter appearing consider to be unworthy to be a Member or Graduate of the University of Durham.

"Now Know ye that We do of especial Grace, certain Knowledge and mere motion by these presents for Us, our Heirs and Successors will, grant, ordain and declare that the said Warden, Masters and Scholars of the University of Durham shall be empowered, and are hereby authorised and empowered to cancel, annul, revoke and take away any degree or title that has been, or shall hereafter have been conferred by the University of Durham upon any person of whom it shall be reported to Convocation by the Warden and Senate that such person has been convicted of a crime for which he has been

sentenced to penal servitude or imprisonment, and that such crime is one which renders him unfit to be a Member or Graduate of the University of Durham.

"And further Know ye that We do in like manner, will, grant, ordain and declare that all parts of the Charter first hercinbefore recited shall be read and construed as if the powers hereby conferrcd and declared were expressly contained in the said Charter, and were among the rights and privileges of a University established by Royal Charter."

LEEDS.

In 1880 a Royal Charter was granted to the Victoria University, which combined Owens College, Manchester, University College, Liverpool, and the Yorkshire College, Leeds.

In 1888 an Act, "51 & 52 Vict. c. 45," was passed, entitled, "*An Act to extend the privileges of the graduates of the Victoria University.*" It contains only one effective clause, which runs as follows :—

"1. Wherever any office is or shall be open to graduates of the Universities of Oxford, Cambridge, and London, or wherever any privilege or exemption has been or shall be given by any Act of Parliament or regulation of any public authority to graduates of the Universities of Oxford, Cambridge, and London, graduates of the Victoria University having the degree which would be a qualification if it had been granted by the University of Oxford, Cambridge, or London, may become candidates for and may hold any such office and shall be entitled to all such privileges as fully as graduates of any of the last-mentioned Universities."

In 1903 this Victoria University was split up into three universities, or, rather, the three constituent colleges each took the *status* of a complete university; and in 1904 was passed "4 Edw. 7, c. 12. *An Act to extend the privileges of the graduates of the University of Leeds,*" in identical terms with the above, substituting Leeds for Victoria.

In the charter of the University occurs the following :—

"X. THE COURT.

"The Court shall be the governing body of the University . . .

"The Court shall have power to deprive any graduate of the University who shall have been convicted of a crime or offence, or shall, in the opinion of the Court, have been guilty of scandalous conduct, of any degree or degrees conferred by the University and of all privileges enjoyed by him as such graduate aforesaid."

LIVERPOOL.

Just as the University of Leeds arose out of the Yorkshire College of Leeds, so, in 1903, did University College, Liverpool, give birth to the University of Liverpool, and, in 1904, was passed "4 Edw. 7, c. 11. *An Act to extend the privileges of graduates of the University of Liverpool,*" in identical terms *mutatis mutandis* with those for Leeds (*vide* above, p. 5).

Although the charter of Liverpool University was granted in the same year as that for Manchester, the disciplinary powers of Liverpool are somewhat different from those of Manchester. Thus, in Manchester, the powers are fundamental and inserted in the charter and reside with the Court. In Liverpool they are contained in ordinances, made by the Council and sanctioned by the Court in accordance with the provisions of the charter, sec. 22, and statutes, sec. 15, sub-sec. 2.

Ordinance X., sec. 9, runs as follows:—

"9. *The Council, acting on the recommendation of the Senate, or on their own initiative but after report by the Senate, may revoke the degree or degrees, diplomas, certificates and distinctions of the University, and all privileges connected therewith, of any holder of the same who shall have been convicted of felony, or of any misdemeanour which shall be held by the Council to be of an immoral, scandalous, or disgraceful nature, rendering the person so offending unfit in the opinion of the Council to hold such degree or degrees, diplomas, certificates, and distinctions, and the privileges connected therewith, or whose name shall have been removed for misconduct by a properly constituted legal authority from any official register of members of the profession to which he belongs, or whose conduct, in the opinion of the Council, shall constitute a breach of any agreement made with the University as a condition of the conferment of such degree or degrees, diplomas, certificates, or distinctions. The Council may restore, on cause being shown and after report by the Senate, any person so deprived to the degree, distinction or privileges previously enjoyed by him without further examination.*"

LONDON.

This was first incorporated by Royal Letters Patent in 1836, revoked and re-enacted with slight alteration in 1837. Its present charter was issued in 1863, and a supplementary charter opening all degrees to women was granted in 1878 (*vide* also p. 36). It was originally a mere examining body, and remained so till the early years of this century, during which a Royal Com-

mission sat upon it. In 1907 University College (founded in 1826) was transferred to the University, and in 1910 King's College (founded in 1829) also ; subsequent to the sittings of the above commission the medical schools of London became also affiliated colleges of the University. As this paragraph is being written still another commission is sitting on the University of London and medical education in the kingdom, the report of which must be awaited.

The only Act of general interest to medical men touching the University of London is " 36 & 37 Vict. c. 55. *An Act to amend the Medical Acts so far as relates to the University of London.* 28 July, 1873." which in effect permitted the University to co-operate with any college or body in conducting examinations for medical qualifications (*vide* also p. 29).

As regards the disciplinary powers of the University over its medical graduates it would appear that the Senate has the power on sufficient cause shown to censure offenders and even to remove their names from the Register of Graduates.

It seems that this power rests on the original charter, which is very wide in its terms. It and the minutes of the Senate down to 1840 are easily accessible in the form of a volume in the library of the University.

MANCHESTER.

This University derives its origin from Owens College, which was opened in 1851, incorporated under Acts of Parliament passed in 1870 and 1871, and in 1879 applied for a university charter, which was granted in 1880, when Owens College, Manchester, was constituted a college of the Victoria University of Manchester thus created.

It was only by a subsequent charter, dated March 20th, 1883 that power was given to the University to confer degrees in medicine and surgery.

A new charter was issued on July 15th, 1903, and, on June 24th, 1904, Owens College was finally incorporated with the University by an Act of Parliament.

So far as disciplinary powers over its graduates are concerned, Clause X. of the charter of 1903 is the exponent of them as follows :—

" The Court shall have power to deprive any graduate or graduates of the University who shall have been convicted of a crime or offence or shall in the opinion of the Court have been guilty of scandalous conduct of any degree or degrees conferred by the University and of

all privileges enjoyed by him her or them as such graduate or graduates as aforesaid."

OXFORD.

Oxford University was established in a rudimentary form about 1250, and gradually acquired its reputation. It seems chiefly to have grown out of its colleges, of which University, Balliol and Merton seem to be the oldest.

Doubtless in the middle ages the University was much mixed up with the Government, and many Acts, both by Parliament and the Kings of England, touching the University must be in existence, but these are of no general interest to medical men. Last century some half dozen Acts were passed "to make further provision for the good government and extension of the Universities of Oxford and Cambridge and the Colleges therein," but, so far as I have read them, there is nothing of special interest to the medical faculty or to medical men.

[17 & 18 Vic. c. 81, 19 & 20 Vic. c. 31, 20 & 21 Vic. c. 25, 23 & 24 Vic. c. 91, 32 & 33 Vic. c. 29, all termed Oxford University Acts.]

As regards disciplinary powers over its graduates the University of Oxford claims to exercise them under a code of statutes, the particular paragraphs of which bearing on the point in question have come down from 1636 unaltered to the present day from their original Latin. They run as follows :—

De Magna Congregatione, Corp. Stat., p. 127 [1636].

§ 4. DE DEGRADATIONE.

1. Cum nonnulla sint delicta, quæ, contra statuta hujus Universitatis admissa, Graduum privatione plectuntur; alia vero, quæ (licet alibi commissa) tamen propter infame supplicii (quo vindicantur) genus, detrahi prius insignia Academica, et delinquentes exanctorari postulant; ne stigmata delinquentium Personis merito inurenda simul Graduum Academicorum dignitati labeculam aspergant; unde aliqua ad ipsam Universitatem redundet infamia:

2. Statutum igitur est, quod quoties hujusmodi se tulerit occasio, si delinquens intra Universitatem præsens fuerit, Vice-Cancellarius (indicta prius Convocatione) ipsum, Habitu Gradui competente indutum, in Domo Convocationis sistendum curet, ubi ipsum Vice-Cancellarius gravi ac severa Oratione increpabit, simulque atrocitatem criminis sui ei ob oculos ponet; deinde ipsius mandato e Bedellis inferioribus unus singula Gradus sui insignia, primo Pileum, mox Caputium, deinde Capam, postremo Togam detrahet; ac eum in modum, cunctis insignibus Academicis exutum et nudatum, e Domo Convocationis proturbabit.

3. Quod si intra Universitatem præsens non fuerit, Vice-Cancellarius (indicta itidem Convocatione) ibidem delinquentis crimen, et

pœnam Degradationis per Statuta (aut alias ex Decreto superioris Curiae, vel ex congruo) irrogandam declarabit. Deinde, Doctorum, Magistrorum Regentium, et non Regentium assensu rogato, Instrumentum publicum a Registrario palam recitari faciet, in quo Nomen, Gradus et Crimen delinquentis exponantur; et ipse, de consensu Doctorum et Magistrorum Regentium, et non Regentium, Gradu omni Academico exutus et exauctoratus pronuncietur et declaretur. Mox idem Instrumentum, sigillo Officii sui munitum, Valvis Magnæ Scholarum Portæ appendendum curabit.

The following is a fair translation of them :—

1. Whereas there are some offences which, being committed against the Statutes of this University, are visited with deprivation of Degrees, and others, which though committed elsewhere, yet by reason of the disgraceful nature of the punishment attaching to them demand the previous removal of Academic badges and the expulsion of the offenders lest the marks to be justly branded upon the persons of the delinquents should at the same time cast a stain upon the dignity of Academic degrees, and thus the University itself should be involved in some disgrace :

2. It is therefore enacted that as often as occasion of this sort arises, if the offender is in residence at the University, the Vice-Chancellor, having first summoned Convocation shall take care that he is placed in Convocation House clothed in the costume appropriate to his Degree, where the Vice-Chancellor shall chide him in a dignified and severe speech, pointing out to him at the same time the atrocious character of his offence. Thereupon by his order one of the inferior beadles shall strip him of all and singular the badges of his Degree, first the cap, then the hood, then the cape, and last of all the gown, and thus despoiled and stripped of all Academic Insignia shall cast him forth of the Convocation House.

3. But, if he is not in residence, the Vice-Chancellor having similarly summoned Convocation shall there declare the crime of the delinquent, and the punishment of degradation to be inflicted either by the Statutes or in other cases by decree of a Superior Court or of the appropriate tribunal. Then, having asked the assent of the Doctors, and of the Masters of Art, Regent and Non-Regent, he shall cause a public Instrument to be read aloud by the Registrar, for the purpose of setting out the name, degree, and crime of the delinquent, and thereupon let the delinquent, with the consent of the Doctors and Masters, Regent and Non-Regent, be pronounced and declared stripped of every Academic Degree, and expelled. Presently the Vice-Chancellor shall see that the same Instrument, authenticated with the seal of his office, is affixed to the leaves of the Great Door of the Schools.

SHEFFIELD.

5 *Edw. 7, c. 152.* *An Act to dissolve the University College of Sheffield and to transfer all the property and liabilities of the University College of Sheffield to the University of Sheffield, and for other purposes.* Aug. 4, 1905.

In 1897 a Royal Charter was granted to the University College of Sheffield, and the preamble to the above Act sets forth in detail how this College was elevated to the dignity of

a University by "*the name and style of the University of Sheffield*," with power to hold examinations under sec. 3 of the Medical Act, 1886, and to elect a representative on the General Medical Council.

The disciplinary powers are based primarily on the Charter, clause 19 (*b*) of which lays it down that the Statutes shall prescribe the duties of the Council of the University. Sec. 14 of the Statutes empowers the Council to make Ordinances, and sec. 27 states that Ordinances shall deal with (*f*) The withdrawal of Degrees, Diplomas, etc.; (*l*) the removal from membership of the University of graduates and undergraduates. Sec. 28 deals with the removal and retirement of officers and members, and (6) of sec. 28 states: "*Any member . . . of any Faculty may be removed for good cause by the Court.*"

"(7) '*Good cause*' when used in reference to removal from office, membership or place means . . . (3) Conviction of any felony. (4) Conviction of any misdemeanour which shall be judged by the authority invested with the power of removal to be of an immoral, scandalous or disgraceful nature . . . "(6) Any misbehaviour of an immoral, scandalous or disgraceful nature rendering the holder of the office, membership or place unfit in the opinion of the authority invested with the power of removal to continue such holder."

I can find no other or specific mention of the actual deprivation of Degrees once conferred upon anyone.

IRELAND.

In Ireland there are three Universities, viz., the University of Dublin, the National University of Ireland, and Queen's University of Belfast.

UNIVERSITY OF DUBLIN.

This University was incorporated by Royal Charter in 1591, and has been closely allied with Trinity College, Dublin, with which College alone the Medical Faculty would seem, indeed, to be connected.

Letters Patent were granted by 13 *Car.* 1, *c.* 18, in 1637 to Trinity College, and the following Statutes have reference to the College. Letters Patent: 2 *Geo.* 1, A.D. 1715; 15 *Geo.* 2, A.D. 1741; 25 *Geo.* 3, *c.* 42; 40 *Geo.* 3, *c.* 84 (constituted a School of Physic in Ireland); 30 *Vic.* *c.* 9 (established a Regius Professor of Surgery); 36 *Vic.* *c.* 21 removed many religious disabilities.

Mercer's Hospital and Sir Patrick Dun's Hospital were in close connection with the College.

Discipline rests entirely in the hands of the Provost and seven Senior Fellows. It would seem to extend to the removal of a name from the list of graduates, but there are no fixed rules on the point.

In 1904 Letters Patent were issued throwing open the Degrees to women.

NATIONAL UNIVERSITY OF IRELAND.

This University (as also Queen's University, Belfast) owes its origin to

" 8 Edw. 7. c. 38, *Irish Universities Act, 1908. An Act to make further provision with respect to University Education in Ireland.*"

This Act dissolved the Royal University of Ireland and Queen's College, Belfast, and substituted therefor the National University of Ireland and the Queen's University of Belfast.

A Statute was promulgated by the Dublin Commissioners under date April 15th, 1911, for the governance of the National University, from which Statute and from the Act the following points are taken.

By sec. 2 (3) of the charter and ch. xxix. of the statute the University Colleges of Dublin, Cork and Galway are made constituent Colleges of the University, and ch. xlix. of the statute provided for the recognition (under conditions) of colleges subsequently established in Ireland.

Sec. 3 (1) of the Act abolished all religious tests for any undergraduate, teacher or professor, etc.

Ch. lv. of the statute deals with the disciplinary powers of the University over its graduates, and runs as follows:—

" DEPRIVATION OF DEGREES AND OTHER DISTINCTIONS.

" 1. *The Senate shall have power to deprive any Graduate of the University who, in the opinion of the Senate, is guilty of scandalous conduct, of any Degree or Degrees conferred by the University, and of all privileges enjoyed by him as such Graduate.*

" 2. *In the case of any Graduate being deprived of a Degree, the Senate shall give directions to the Registrar of the University for the removal of such Graduate's name from the Register of Graduates of the University; and in the case of a Medical Graduate, the Senate shall furnish a copy of the order of removal to the General Medical Council.*"

QUEEN'S UNIVERSITY OF BELFAST.

Founded in 1908 by the same Act of Parliament as the National University of Ireland, a Royal Charter was granted to it in the same year subject to the provisions of the Act.

Its disciplinary powers are defined by sec. X. of the charter, the last paragraph of which section runs:—

"The Senate shall have power to deprive any graduate of the University who, in the opinion of the Senate, is guilty of scandalous conduct, of any degree or degrees conferred by the University and of all privileges enjoyed by him or her as such graduate aforesaid."

SCOTLAND.

In Scotland there are four universities, viz., Aberdeen, Edinburgh, Glasgow and St. Andrews.

So far as the Scotch universities are concerned there are two Acts of Parliament, viz., those of 1858 and 1889, the titles and preambles of which are worth quoting, though the Acts themselves are only of interest to those who hold official posts in the universities. These latter are intensely interested in the rules and regulations governing their duties and emoluments, and the relationships of the various faculties to one another and to the Universities as laid down by these Acts.

"21 & 22 Vic. c. 83. An Act to make provision for the better government and discipline of the Universities of Scotland and improving and regulating the course of study therein; and for the union of the Two Universities and Colleges of Aberdeen. Aug. 2, 1858."

"Whereas it is expedient for the advancement of Religion and Learning to make provision for the better government and discipline of the Universities in Scotland—be it enacted."

"52 & 53 Vic. c. 55. An Act for the better Administration and Endowment of the Universities of Scotland, Aug. 30, 1889."

"Whereas it is expedient to make provision for the better administration and endowment of the Universities of St. Andrews, Glasgow, Aberdeen and Edinburgh, and for improving and regulating the course of study therein:—be it enacted."

ABERDEEN.

The University arose out of two colleges, King's and Marischal, one founded in 1494 under the authority of a Papal Bull, the other in 1593 by a charter (afterwards ratified by Act of Parlia-

ment). They were, only as late as 1858, by Act of Parliament, fused into one university (*vide* above), that of Aberdeen.

As neither under its charter, nor under the Act of Parliament, does the University possess satisfactory disciplinary powers over its graduates, the Senate in 1894 sent the following prayer to the Commissioners under the Act of Parliament :—

“ The Senatus Academicus of the University of Aberdeen therefore respectfully prays the Commissioners to take the premises into their consideration, and to issue a draft ordinance declaring that after due inquiry it shall be in the power of the University, acting under such procedure as to the Commissioners shall seem right, to deprive of his degree or diploma any graduate who may have been convicted of any crime or offence, or who may have been adjudged by any competent tribunal empowered by law to inquire into the matter to have been guilty of infamous conduct in any respect.”

According to a letter, dated March 21st, 1912, received by the editor from the secretary of the University, “ *The Commissioners, however, did not consider they had authority to confer such powers and nothing further was done in the matter,*” and apparently, therefore, the University has no disciplinary powers over its medical graduates.

EDINBURGH.

The University of Edinburgh was founded in 1582 by Royal Charter of James VI. of Scotland, and in 1621 the Scottish Parliament granted to it all the privileges enjoyed by other universities in the kingdom. The two Acts above noted somewhat modified its constitution, but not in a way of interest to the medical profession.

Disciplinary powers over its graduates would seem to be non-existent. In 1896 the registrar of the University thus wrote :—

“ It has not been legally established that this University possesses penal powers, and although the Scottish Universities Commission has been approached on the subject, no official statement of the views of the Commission has yet been communicated to the University.”

The editor assumes that the reply, if given, was of the same meaning as that to Aberdeen (above).

GLASGOW.

Founded by a Bull of Pope Nicholas V., 1450–1451 ; new charter issued in 1577. It would seem to have gone through very

hard times owing to religious disputes, but, by the two Acts above mentioned, it was reconstituted and received further endowments.

No disciplinary powers over its graduates would appear to be possessed by the University. Its position appears to be that of Aberdeen and Edinburgh (*vide* p. 13).

For the information of those interested we may note two books of reference on the history, etc., of Glasgow University: (1) "*Munimenta Almæ Universitatis Glasguensis*," published in 1854 under the auspices of the Maitland Club; and (2) "*Coutts' History of the University of Glasgow*, 1909."

ST. ANDREWS.

Founded in 1411; confirmation of foundation by a Bull of Pope Benedict XIII. in 1413. In 1747 its colleges were united by an Act of Parliament. It is included in the 1858 and 1889 Acts above.

Disciplinary powers are non-existent. We can only refer to the remarks on Aberdeen, Edinburgh, etc.

WALES.

There is only one University in Wales, but it is of comparatively little interest to medical men inasmuch as its medical qualifications have not yet apparently reached the standard which entitles the holder thereof to be registered as fully qualified in medicine, surgery and midwifery.¹

In 1872 the University College of Wales was established at Aberystwyth, in 1883 the University College of South Wales at Cardiff, and in 1884 the University College of North Wales at Bangor. In 1893-1894, by Act of Parliament, these three colleges were united under the style and title of the University of Wales; and in 1902 "*2 Edw. 7, c. 14*," was passed, "*An Act to extend the privileges of the Graduates of the University of Wales. July 22, 1902*," in terms identical *mutatis mutandis* with that for Leeds (*q.v.* above, p. 5).

A supplemental charter was granted in 1906 with a proviso that no such degrees (in the faculty of medicine and surgery) shall by virtue of this charter be deemed to confer registrable qualifications under the Medical Acts. The precise reason for this is not quite clear considering that a six years' course of instruction for the M.B. is demanded of students.

¹ This is incorrect: the Welsh degrees are now registrable. *Vide* Preface.

The disciplinary powers of the University are based upon Article XIV. (13) of the charter of 1893-1894, which runs:—

“ The Court may revoke the degree or degrees of any graduate of the University who shall be convicted within our United Kingdom or its Dependencies of felony or of any indictable misdemeanours and may restore on cause being shown any person . . . to the degree he previously enjoyed . . . ”

Medicine was then not a faculty, but the charter of 1906 made the above clause applicable to degrees in medicine.

SUB-GROUP II.

The Licensing Bodies.

ENGLAND.

In England there are only three corporations granting diplomas which are registrable, and indeed, in practice, only two of an ordinary kind, for the union of the Royal College of Physicians with the Royal College of Surgeons has become so intimate that for ordinary qualifying purposes the titles of L.R.C.P. or M.R.C.S. (each singly) have become obsolete, but (*vide* p. 32) where extra qualifications are considered.

SOCIETY OF APOTHECARIES.

Founded by letters patent in December, 1618 “ by the name of the Master, Wardens, and Society of the Art and Mystery of Apothecaries of the City of London.” This charter, granted by James I., was in 1815, by “ 55 Geo. 3, c. 194,” entitled “ *An Act for better regulating the practice of Apothecaries throughout England and Wales. July 12, 1815,*” declared to be “ in full force and virtue.”

The original charter of 1618 empowered the Society by its officers to “ *go and enter into any shop or shops, house or houses, cellar or cellars, of any persons whomsoever, using or exercising the Art or Mystery of Apothecaries . . . within the City of London, . . . or within seven miles thereof . . . where any medicines, simple or compound, . . . are likely to be found ; and prove of the same . . . be and shall be wholesome, medicinable, meet and fit for the cure, health and ease of His Majesty’s subjects ; . . . and shall have full power and authority to examine and try all and singular persons . . . professing the Art and Mystery of Apothecaries . . . within the City of London . . . or within seven miles of the same City . . . and to remove and prohibit all those . . . whom they shall*

find . . . unskilful, ignorant, or insuffieient, or obstinate or refusing to be examined . . . ; and also all and singular medicines, wares, drugs, receepts . . . and all other things belonging to the aforesaid Art, which they shall find unlawful, deceitful, stale, out of use, unwholesome, corrupt, unmedicinable, pernicious or hurtful, to burn before the offender's doors ; and also to lay, impose and exact mulets, . . . by fines and amerciaments, upon such offenders . . . ”

The Act of 1815, sec. iii., extended these powers to the whole of England and Wales, and fixed the fine at £5 for a first, £10 for a second, and £20 for a third and subsequent offence.

Sec. iv. laid down the qualifications of the inspectors.

Sec. v. provided for a fine or loss of certificate of any apothecary who refused to make up a prescription of a physician, or made up medicine not in strict accord with the prescription.

Sec. vii. strongly directed (by the use of the word “ shall ”) the Society to carry the Act into “ full execution.”

Secs. ix. to xiii. dealt with the appointment of examiners.

Sec. xiv. forbade persons to practise as apothecaries unless they had a certificate from the Court of Examiners.

The remaining sections are of no general interest.

When, in 1858, the Medical Act was passed, it was found that certain sections of the Apothecaries Act required amendment, and consequently in 1874, “ 37 & 38 Vict. c. 34. *An Act to amend the Apothecaries Act of 1815. July 16, 1874,*” was passed, to give the Apothecaries Society full power to unite and co-operate with all or any of the corporations included in the 1858 Medical Act in conducting medical examinations, and also to definitely give the Apothecaries Society the power of disregistering any of its licentiates.

Sec. 2 repealed so much of sec. iv. of the 1815 Act as referred to the qualifications of examiners, and also so much of sec. xv. as required an apprenticeship for admission to examination.

Sec. 3 empowered the Apothecaries Society to unite and co-operate with other corporations in conducting medical examinations.

Secs. 4 and 5 run as follows :—

“ 4. It shall be lawful for the master, wardens, and assistants for the time being of the said Society of Apothecaries to strike off from the list of licentiates of the said society the name of any person who shall be convicted in England or Ireland of any felony or misdemeanour, or in Scotland of any crime or offence, or who shall after due inquiry be judged by the General Council to have been guilty of infamous conduct in any professional respect, and the said society

shall forthwith signify to the General Council the name of the licentiate so struck off.

" 5. Nothing in this Act contained shall deprive the said Society of Apothecaries of such right as they now have, or relieve them from any existing obligation, to admit women to the examinations required for certificates to practise as apothecaries, or to enter on the list of licentiates of the said society any women who shall have satisfactorily passed such examinations and fulfilled the other general conditions imposed upon persons seeking to obtain from the said society a qualification to be registered under the Medical Act, 1858."

The only other Act directly affecting the Society is "*7 Edw. 7, c. 22. An Act to vary the style or qualification of licentiates of the Society of Apothecaries of London, and for other purposes. July 4, 1907.*"

The effects of this Act were two, viz.: (1) To affirm for purposes of registration that a licentiate of the Society was fully qualified in medicine, midwifery and surgery as demanded by the Medical Acts; and (2) to permit the Society to restore a licentiate to the list of licentiates subsequently to his having been struck off the list, provided that the General Medical Council gives its consent to such restoration.

THE ROYAL COLLEGE OF PHYSICIANS OF LONDON.

The College was founded in 1518 by Royal Letters Patent from Henry VIII., their jurisdiction at first extended only to those practising "the same faculty in London and within seven miles." The Letters Patent were conferred by Statutes 14, 15 & 20 Henry 8, and the Charter of 10 Henry 8, in the latter of which documents it is laid down that only graduates of Oxford or Cambridge or examiners of the College shall be suffered "to exercise or practice in physic through England." The original name in the above charter and statutes was "The President and College or Commonalty of the Faculty of Physic in London," and it was considered necessary to pass an Act of Parliament to alter that name. This Act "*23 & 24 Vic. c. 66. An Act to amend the Medical Act (1858) Aug. 6, 1860,*" was passed, and the name "*The Royal College of Physicians of London*" became official, with power to alter it to "of England." (This Act applied to the Royal College of Physicians of Edinburgh and to the King's and Queen's College of Physicians in Ireland in precisely the same manner.) By the same Act the name of "Elects" as officers of the College was deleted and "Censors" substituted.

So far as the disciplinary or penal powers of the Act are concerned they rest upon a clause in the Charter of Incorporation, 1518, confirmed by 14 & 15 Henry 8, c. 5, and further confirmed by 32 Henry 8, c. 40, and again confirmed and defined by 1 Mary, sess. 2, c. 9, and finally fully and explicitly confirmed by 54 Geo. 3, c. 118.

The following by-laws regulate the exercise of these disciplinary powers at the present time.

" Of the Censors.

" By-Law XLIX.

" The Censors shall, in accordance with the Charter of Henry VIII., confirmed by Act of Parliament, inquire into any alleged misconduct or infringement of the Bye-Laws by Fellows, Members, or Licentiates, and shall carry into effect the Bye-Laws and Regulations of the College in regard to such matters.

" Of Fines and Penalties.

" Bye-Law CLXXXVIII.

" If it shall at any time hereafter appear, or be made known to the President or Censors, that any Fellow or Member of the College has obtained admission into the College, or that any Licentiate of the College has obtained the Licence of the College by fraud, false statement, or imposition, or that any Fellow, Member or Licentiate has been guilty of any great crime or public immorality, or has acted in any respect in a dishonourable or unprofessional manner,¹ or has violated any Statute, Bye-Law, or Regulation of the College relating to Fellows, Members, or Licentiates, as the case may be, the President and Censors may call the Fellow, Member, or Licentiate so offending before them, and having investigated the case, may admonish, or reprimand, or inflict a fine not exceeding £10; or if they deem the case of sufficient importance, may report the case to the College, and thereupon a majority of two-thirds of the Fellows present at a Meeting of the Fellows, which must be specially summoned for that purpose, may declare such Fellow to be no longer a Fellow or a Member of the College, as the College shall determine; or such Member to be no longer a Member of the College; or such Licentiate to be no longer a Licentiate, and his Licence shall be revoked and withdrawn; and such Fellow, Member, or Licentiate shall forfeit all the rights and privileges which he does or may

¹ The College is advised that the Censors Board under the Charter and Statutes is constituted the authority to decide what is unprofessional conduct.

enjoy as a Fellow, or as a Member, or as a Licentiate, as the case may be ; and his name shall be expunged from the list of Fellows, or from the list of Members or from the list of Licentiates, as the case may be, accordingly."

ROYAL COLLEGE OF SURGEONS OF ENGLAND.

To the historian, the original connection of this College with the Barber's Company and its growth as a separate corporation are exceedingly interesting, but we cannot enter into that side of the subject here ; suffice it to say that the modern authority of the College over its constituent individuals dates from a charter granted in March, 1800, amplified and modified by other charters granted in 1822, 1843, 1852, 1859, 1888, and finally, December, 1899.

The Medical Act of 1858 permitted the College to unite and co-operate in conducting the examinations required for registration under the Act, and this permission necessitated the passing of " 38 & 39 Vic. c. 43. *An Act to amend the Medical Acts so far as relates to the Royal College of Surgeons of England. July 19th, 1895,*" which Act enabled them to unite and co-operate as above, but preserved their power of " appointing or electing " Fellows (F.R.C.S.) without examination, and also preserved to them the right, or did not relieve them of the obligation, of admitting women to examination. The conjoint examination of the Royal College of Physicians with the Royal College of Surgeons was established to in 1884.

The disciplinary powers of the College over its Members and Fellows rest upon sec. 22 of the Charter of 1843 and Sec. xvi. of the by-laws.

Sec. 22 of the Charter gives the statutory power to recall diplomas, etc., and Sec. xvi., of their by-laws runs as follows :—

" 1. *If any Fellow or Member of the College shall after due enquiry be judged by the Council to have been guilty of disgraceful conduct in any professional respect, he shall be liable to removal by Resolution of the Council from being a Fellow and Member or Member of the College.*

" 2. *Should any Fellow or Member of the College be convicted of any Criminal Offence, or have his name removed from the Medical Register by the General Medical Council under Section XXIX. of the Medical Act of 1858, the Council of the College may, if they should consider the offence of which he shall have been so convicted, or for which his name shall have been so removed, to be of such a nature as to render him unfit to remain a Fellow and*

Member or a Member of the College, remove such Fellow or Member by Resolution to that effect, from being a Fellow and Member or a Member of the College.

"3. Any Fellow or Member who shall have been removed by Resolution of the Council as aforesaid shall thereby forfeit all his Rights and Privileges as a Fellow and Member or a Member of the College; and his Diplomas or Diploma shall thereupon be void and shall become the property of the College, and be delivered up by such Fellow or Member to the College on demand, provided that if at any subsequent time the Council of the College by Resolution, and subject to such conditions as they may think proper, rescind any Resolution which may have been passed under any of the preceding By-Laws for removing any person from being a Fellow and Member or Member of the College, such rescinding of the former Resolution shall have the effect of restoring such person to the Fellowship or Membership of the College, and such person shall, notwithstanding such removal or forfeiture as aforesaid, but subject to such conditions as the Council may in the particular case see fit to impose, be restored to his Rights and Privileges as a Fellow and Member or a Member of the College."

IRELAND.

There are in Ireland, as in England, three corporations which still either singly or combined continue to grant registrable qualifications, though, as with the English ones, they are in practice reduced to two, viz.: the Apothecaries' Hall, Dublin, and the combined Royal Colleges (Physicians and Surgeons).

APOTHECARIES' HALL, DUBLIN.

In 1791 the Parliament of Ireland passed "31 Geo. III., c. 3 (*Irish*). *An Act for the more effectually preserving the health of His Majesty's subjects, for erecting an Apothecaries' Hall in the city of Dublin, and regulating the profession of Apothecary throughout the Kingdom of Ireland.*"

By this Act the Apothecaries' Hall was founded under a governor and directors.

So far as the right to grant the diploma of L.A.H., Dublin, as a registrable qualification to practise medicine is concerned, this Act does not appear to have been touched by definite legislation, but the General Medical Council is now called upon to nominate, or to assist in nominating, examiners for part of the final examination, and appoints supervisors of the examination.

As regards penal powers all that the Hall possesses are contained in the last section of the above Act, and they only consist of powers to fine any person assuming the privileges, etc., of an apothecary, unless duly examined and certified. The Hall would appear to have no powers to disqualify a man who has once passed the examination.

ROYAL COLLEGE OF SURGEONS IN IRELAND.

Founded by Charter in 1784, the College obtained other supplementary charters in 1828, 1844 and 1885. In 1797 a statute "36 Geo. III., c. 9 (*Irish*)" was passed, wherein it was enacted that "*no person is capable of being elected surgeon to a county infirmary or hospital in Ireland who shall not previously have obtained letters testimonial of his qualification under the seal of the Royal College of Surgeons in Ireland.*"

This was repealed in 1876 by "39 & 40 Vic. c. 40. *An Act for enabling legally qualified Medical Practitioners to hold certain public medical appointments,*" sec. 2 of which states "*that . . . all legally qualified medical practitioners with qualifications in medicine and surgery registered under the Medical Act shall be capable of being elected surgeons to county infirmaries or hospitals in Ireland, and when so elected shall for all purposes be deemed to be duly appointed. . . .*"

The disciplinary powers of the College over its licentiates and fellows are based upon the 18th clause of the 1844 charter, which runs as follows:—

"*If it shall, at any time, appear that any Licentiate or Fellow of said College, shall have obtained his Letters Testimonial or his Diploma respectively, by any fraud, false statement, or imposition, or that either before or after obtaining such, his Letters Testimonial or Diploma, he shall have wilfully violated any Bye-Law, Rule, or Regulation of the said College, then and in every such case, and after such previous notice to, and such hearing of, such Fellow or Licentiate, as under the circumstances the Council of the said College shall think proper, it shall be lawful for the Council to pass such judgment or censure upon the person so offending, or (in case it should seem expedient) to recall and to declare the Letters Testimonial or Diplomas respectively, of such Fellow or Licentiate, to be void, and thereupon every such Licentiate or Fellow shall accordingly cease to be a Licentiate or a Fellow of the said College as the case may be.*"

ROYAL COLLEGE OF PHYSICIANS OF IRELAND.

The origin of this College was the College of Physicians in Dublin, founded in 1660 and incorporated by Royal Charter of Charles II. in 1667 ; it was re-incorporated by their Majesties King William and Queen Mary in 1692, under the title of " The King and Queen's College of Physicians in Ireland." In 1800 40 *Geo. III., c. 84* declared that it should be lawful for the College to examine all graduates of the University of Dublin who should apply for admission to the College, thereby repealing the power of such graduates to be admitted without examination, thus amending 25 *Geo. III., c. 42* and 15 *Geo. IV., 1741*.

In 1878, under 30 *Vic. c. 9*, it obtained a supplemental charter which established the order of Members of the College. By a further supplemental charter, obtained in 1890, the title was again altered to its present one, viz., the Royal College of Physicians of Ireland, and Fellows could only be made from Members.

In 1905 a further modification in the charter was granted by which "*any Doctors or Bachelors of Medicine of any University of the United Kingdom or India or any British Colony or Dependency, or any Licentiate of any College of Physicians in the United Kingdom, or any person holding a Foreign Qualification entitling him to practise Medicine and Surgery in the country where such qualification has been conferred (with certain provisions satisfactory to the College), shall be eligible to become Members of the College.*"

The disciplinary powers of the College are based upon Secs. xiv. and xix. of the Charter of William and Mary under which by-laws have been framed. Sec. xiv. runs :—

" That it shall and may be lawful for the President and Fellows of the said College, . . . as often as occasion shall require, to summon, hear and admonish any of the said Censors and Fellows of the same College, . . . or for misbehaving themselves in their respective places, or any other just or reasonable cause from time to time to expel and remove any of the same Censors or Fellows from his and their respective place and places in the same College, and after due publication and entry made thereof in the Register of the same College and Corporation, from time to time to proceed to new elections to supply the place or places of such person or persons so removed or expelled according to the provisions above mentioned and the tenor of these presents."

Sec. xix. runs :—

" . . . and also to ordain, constitute, make, and set down in writing such fitting, wholesome and reasonable laws,

ordinances, orders, decrees, articles and constitutions as to them shall seem good, profitable and necessary, according to their good discretions, for the good rule, order, government and disposition of the said President and Fellows, and their successors, and of all their officers and ministers, goods, lands, tenements, and hereditaments, and also of all other practisers of Physic, and other the persons afore-named, for the reformation and redress of the abuses, deceits, misdemeanours, and enormities and other the premises herein mentioned or expressed."

By-law xxiv. runs :—

" Every Candidate, before being enrolled a Member of the College, shall subscribe the following Declaration in the presence of the President and Fellows :

" I do hereby solemnly and sincerely promise that I will observe and obey the Statutes, By-Laws, and Regulations of this College, relating to Members, and will submit to such penalties as may be lawfully imposed for any neglect or infringement of them.

" I further promise and declare that I will, to the best of my ability, do all things in the practice of my profession for the honour of the College and the good of the Public.

" I hereby authorise the President and Fellows of the Royal College of Physicians of Ireland to erase my name from the List of Members, and I consent to surrender the Diploma received from the College, if I shall, after having obtained the Membership, engage in trade, or if I shall dispense Medicine, or make any engagement with a Chemist or other person for the supply of Medicines, or if I shall practise Medicine or Surgery in partnership, by deed or otherwise."

And xxxi. runs :—

" Every Candidate, before being admitted as a Licentiate of the College, shall subscribe the following Declaration, viz. :—

" " I, , do hereby solemnly and sincerely promise that I will observe the Statutes and By-Laws of this College, and to my power endeavour that the honour of the College be preserved entire.

" " I engage not to endeavour to obtain practice, or to attract public notice, by any unworthy means ; I also engage that I will neither permit nor sanction the use of my name by any other person for such purposes, nor in connexion with any secret remedy ; and in case of any doubt relative to the true meaning or application of this engagement, I promise, to submit to the judgment of the College.

" " And I solemnly and sincerely declare, that should I violate any of the conditions specified in this Declaration, so long as I

shall be either a Licentiate, Member, or Fellow of the College, I thereby render myself liable and shall submit, to censure of the College, or to expulsion and surrendering of the Diploma, whichever the President and Fellows of the College, or the majority of them, shall think proper to inflict.' "

The latest By-laws, 1908, run as follows :—

CHAPTER X.

" Of the Professional Conduct of Fellows, Members, and Licentiates of the College.

" LXXXVIII.

" Any Fellow, Member, Licentiate, or Diplomate of this College who, in the judgment of the College, shall be deemed guilty of conduct unbecoming the Profession of Physic, shall be placed under the censure of the College.

" LXXXIX.

" No Fellow, Member, Licentiate, or Diplomate of this College shall consult with any Fellow, Member, Licentiate, or Diplomate who is under censure.

" XC.

" No Fellow, Member, Licentiate, or Diplomate of this College shall consult with any person who shall have been pronounced guilty of any conduct unbecoming the profession of Physic."

SCOTLAND.

Scotland still possesses three corporations able to grant diplomas intrinsically registrable, but for practical, *i.e.*, ordinary qualifying, purposes they are now combined into one. The three are The Royal College of Physicians, Edinburgh, The Royal College of Surgeons, Edinburgh, The Royal Faculty of Physicians and Surgeons of Glasgow. For higher qualifications, *vide* p. 32.

ROYAL COLLEGE OF PHYSICIANS OF EDINBURGH.

The original charter was granted in 1681 by King Charles II., was confirmed by an Act of the Scottish Parliament, 1685. A further Charter of Incorporation was granted in 1861.

The disciplinary powers of the College are based upon :—

(a) Clause VI. of the Charter of 1861, which runs :—

" If it shall at any time hereafter appear that any Fellow, Member, or Licentiate of the College has obtained admission to or licence from the College, or the Royal College of Physicians of Edinburgh, by any

fraud, false statement or imposition, or that he has violated any bye-law, rule, or regulation of the College, then and in every such case, and after previous notice to, and such hearing of, such Fellow, Member, or Licentiate, as under the circumstances the Council shall think proper, it shall be lawful for the Fellows, with the concurrence of not less than three-fourths of their number, present at a meeting, specially summoned for the purpose, to pass such censure or sentence of suspension against the Fellow, Member, or Licentiate so offending, as shall be determined at such meeting, or to expel such Fellow, Member, or Licentiate from the College; and upon any such sentence of suspension or expulsion being passed, such Fellow, Member, or Licentiate shall cease to be a Fellow, Member, or Licentiate of the College and to have any right or interest in or to the property or funds of the College, either absolutely, or for such time as shall be specified in the sentence of suspension; and all the rights and privileges granted to such Fellow, Member, or Licentiate as the case may be, shall cease and determine upon such expulsion or during such suspension.

(b) Clause XX. which gives the Fellows full powers to make bye-laws, rules and regulations for all purposes concerning the College.

(c) The seventh chapter of the laws made in accordance with the above Clause XX. This chapter so far as concerns the present subject runs as follows —

“ OF FORFEITURE OF FELLOWSHIPS, MEMBERSHIPS, AND
LICENCES.

¹ “ 1. No Fellow or Member of the College shall by himself co-partners, or servants, keep a public Apothecary's, Druggist's, or Chemist's shop, or dispense Medicines for gain. Any Fellow or Member of the College who shall by himself, co-partners, or servants keep a public Apothecary's, Druggist's, or Chemist's shop, or dispense Medicines for gain, shall forfeit, for such time as the Fellows may determine, all the rights and privileges which he does or may enjoy as a Fellow or Member of the College.

“ 2. Any Fellow, Member, Licentiate, or Diplomat in Public Health who shall have been convicted by the Law Courts of Great Britain or Ireland, or of the country in which he resides, of any felony, misdemeanour, crime, or offence, or shall, after due inquiry, be judged by the Fellows to have been guilty of

¹ This law seems to have been enacted in 1904; those elected prior to 1904 can dispense medicines for gain, but otherwise the law is the same for all.

infamous conduct in any professional respect, may, if the Fellows see fit, be expelled from the College, and deprived of his Fellowship, Membership, Licence, or Diploma in Public Health, and of all the rights and privileges which as Fellow, Member, Licentiate, or Diplomate in Public Health he does or may enjoy.

“ 3. Every Fellow, Member, Licentiate, and Diplomate in Public Health shall at all times conduct himself in a becoming and professional manner. Any Fellow, Member, Licentiate, or Diplomate in Public Health who shall, in accordance with the provisions of the Medical Act (1858), Sec. XXIX., have had his name removed from the Medical Register, or who shall, after due enquiry, be judged by the Fellows to have acted in an unbecoming or unprofessional manner, may be censured, or may be deprived, for such time as the Fellows may determine, of all the rights and privileges which as Fellow, Member, Licentiate, or Diplomate in Public Health he does or may enjoy.”

Rules 4, 5, 6 and 7 lay down the procedure to be adopted in case of an offender being tried. Not only are these laws in force, but every Licentiate signs the following Form of Declaration on being admitted :—

“ I hereby promise . . . under pain of forfeiture of these Diplomas that I shall not advertise, nor employ any other unbecoming method of obtaining practice, nor allow my name to be connected with anyone who so acts, or is engaged in any discreditable kind of medical work. I also promise to obey all the laws and bye-laws of the said College made or to be made, and to submit to the penalties therein imposed.”

ROYAL COLLEGE OF SURGEONS OF EDINBURGH.

This Corporation received its original Charter in 1505, ratified and confirmed by Act of Scottish Parliament, 1641, and again in 1670 and 1694, and again ratified and confirmed with a new charter, from George III. in 1778, settled by Act 27 Geo. III., c. 65 further altered and amended by 53 Geo. III., c. 76. From then till 1850 it seems to have remained undisturbed by legislation ; in 1850 13 Vic. c. 23 was passed, and was followed by a Royal Charter granted in 1851, by which the College “ was of new incorporated into one body politic and corporate by the name and style of ‘ The Royal College of Surgeons of Edinburgh.’ ”

“ By the said Charter of 1851 it is further ordained and declared ‘ that it shall at any time hereafter appear that any Fellow or Licentiate

of the College shall have obtained his Diploma by any fraud, false statement or imposition, or that either before or after obtaining such Diploma he shall have wilfully violated any bye-law, rule, or regulation of the said College, then and in every such case, and after such previous notice to and such hearing of such Fellow or Licentiate as under the circumstances of the case the College shall think proper, it shall be lawful for the College, with the concurrence of not less than three-fourths in number of the Fellows present at a meeting lawfully summoned for the purpose, to pass such censure or sentence of suspension against the person so offending as to the College shall seem meet, or to recall the Diploma of such Fellow or Licentiate, and to declare the same to be void ; and upon such recall every such Fellow or Licentiate shall cease to be a Fellow or Licentiate of the said College as the case may be.'

"On the 29th November, 1875, the College enacted a bye-law in the following terms : ' In the event of any Licentiate of the College allowing his name to be connected with advertisements or publications of an indelicate or immoral nature, or being guilty of any deception, or of infamous conduct in the practice of his profession ; or in the event of the commission by any Licentiate in England or Ireland or elsewhere abroad of any felony, misdemeanour, or unlawful act, or in Scotland of any crime or offence, then, and in every such case, it shall be in the power of the College (at a meeting specially called for the purpose, and after such notice to such Licentiate of the day, hour, and place of meeting as the College may fix, in order that he may, if so advised, be heard in his own defence) to take into consideration the facts and circumstances of the case, and, if necessary, to hold adjourned meetings thereanent ; and on being satisfied of the guilt of such Licentiate the College may, with the concurrence of not less than three-fourths of the Fellows present, pass such censure or sentence of suspension against such Licentiate as they may see fit ; or recall his Diploma, and declare the same to be void ; and on such recall he shall cease to be a Licentiate of the said College.'

"On the 15th December, 1885, the College enacted another bye-law in the following terms : ' In the event of any Licentiate holding the Surgical Diploma of the College having had his name erased from the Medical Register by virtue of the provisions of the Medical Act, 1858, Section XXIX., it shall be in the power of the College, at a meeting specially summoned for the purpose, and with the concurrence of not less than three-fourths of the Fellows present, to recall the Diploma of such Licentiate, and declare the same to be void, and upon such recall he shall cease to be a Licentiate.' "

ROYAL FACULTY OF PHYSICIANS AND SURGEONS OF GLASGOW.¹

This Corporation was instituted in 1599 by Royal Charter, ratified by King James in 1672, and would appear to have been untouched by legislative action from that time until 1850 when "13 Vic. c. 20" was passed, "*an Act for better regulating the Privileges of the Faculty of Physicians and Surgeons of Glasgow, and amending their Charter of Incorporation, June 10, 1850.*"

The disciplinary powers of the Corporation are based on the general powers given by the charter to make bye-laws. The following are the sections of the regulations of the Faculty bearing on the subject:—

"2. If any Fellow, Licentiate, or other diplomate shall be convicted of any felony, misdemeanour, crime, or offence, or shall, after due inquiry, be judged by the Faculty or by the General Medical Council to have been guilty of infamous conduct in any professional respect, the Faculty may, if they see fit, recall and cancel his licence or diploma, and his name shall thereupon be erased from the list of Fellows, Licentiates, or other diplomates.

"3. If any Fellow, Licentiate, or other diplomate shall, after due inquiry, be judged by the Faculty to have been guilty of unbecoming or improper conduct in any professional respect, the Faculty may, if they see fit, censure him in respect of such conduct; and if after such censure he shall again, after due inquiry, be judged by the Faculty to have been guilty of unbecoming or improper conduct in any professional respect, the Faculty may, if they see fit, recall and cancel his licence or diploma, and his name shall thereupon be erased from the list of Fellows, Licentiates, or other diplomates.

"4. If any charge of infamous, unbecoming, or improper conduct, in any professional respect, shall be made against any Fellow, or any Licentiate, or other diplomate, it shall be referred to the Council, who shall make due inquiry as to the charge, and submit to the Faculty a reasoned report thereon, which report shall state definitely whether the case should or should not be proceeded with, and the special Clause above (1, 2, or 3) under which the charge should lie."

¹ Those who may be interested in the history of this ancient corporation should consult "*Memorials of the Faculty of Physicians and Surgeons of Glasgow*," by Alexander Duncan, published by James Maclehose & Sons, 1896; a copy of which was generously placed at the disposal of the Editor by the University of Glasgow. The title "*Royal*" was only conferred in December, 1909.

COMMENTS ON CHAPTER I.

DISCIPLINARY POWERS.

I have endeavoured above to give accurate information regarding the disciplinary powers which each Licence or Degree-granting Corporation possesses over its medical graduates, because in 1895-6 the General Medical Council thought it important to ascertain the point, but inasmuch as that body alone has the power to take a practitioner's name off the Register, and, as being "off the Register" is equivalent for legal purposes to being unqualified, the private powers of "unfrocking" or censuring, would seem to be of quite secondary importance, especially, too, when the social, in addition to the legal, results of being struck off the Register are taken into consideration (*vide* also p. 51).

We may, however, sum up the present position as follows, viz., out of 27 such corporations 22 possess the power of suspending or withdrawing qualifications or censuring more or less severely offenders against the canons of proper professional conduct. The exceptions are the Scotch Universities and the Apothecaries' Hall, Dublin.

REGISTRABLE QUALIFICATIONS.

Schedule A of the Act of 1858 (and Sec. xvii. permitting any person to continue to practise who was actually practising medicine before August 1st, 1815) gave a list of eleven classes of qualifications duly registrable, but, curiously enough, gave a wrong reference to the clause of the Act, and also omitted "members" of the Royal Colleges of Physicians of London and Edinburgh, this mistake and omission rendered necessary the passing of "22 Vic. c. 21, *An Act to amend the Medical Act* (1858), *Apr. 19th, 1859*," which repaired the mistake and omission and gave a little more time for existing practitioners to become registered; it also allowed medical graduates of foreign universities to act as "*Resident Physician or Medical Officer of an Hospital established exclusively for the Relief of Foreigners in Sickness.*"

Conjoint Examinations.—Sec. xix. of the 1858 Act gave power to any two or more colleges or bodies mentioned in the above Schedule A to unite and co-operate in conducting examinations for qualifications to be registered.

This clause, for reasons apparently clear to lawyers, necessitated the passing of two or three special Acts relating to various corporations, *e.g.*: "36 & 37 Vic. c. 55. *An Act to amend the*

Medical Act so far as relates to the University of London, July 28, 1873. 38 & 39 Vic. c. 43. An Act . . . so far as relates to the Royal College of Surgeons of England, July 19, 1895. 37 & 38 Vic. c. 34. An Act to amend the Apothecaries Act." All in very similar phraseology allowing the co-operating corporations to make, by means of a bye-law, certain conditions regarding the conjoint examinations.

The Apothecaries' Society of London has been unable or unwilling, on the terms offered, to join with any other corporation in conducting qualifying examinations, but various Acts make it a complete portal (*vide* next page) by itself.

The question of how far the University of London will take advantage of the above section is still *sub judice* by the Royal Commissioners sitting in 1912.

The Royal College of Surgeons has united with the Royal College of Physicians and they issue a conjoint diploma (*vide* below).

Definition of Complete Examination.—Sec. 2 of the 1886 Act (*vide* p. 58) expressly laid it down that for purposes of registration a person must have "passed such qualifying examination in medicine, surgery, and midwifery, as is in this Act mentioned," and Sec. 3 (2) defines the standard of proficiency. Now, in days prior to 1858 it was certain that some of the examinations of some of the corporations were incomplete in this sense, although diplomas were thereby granted. [Indeed, in an interesting account of the history of the Faculty of Physicians and Surgeons of Glasgow I find it mentioned that men could, in early days, be granted permission to practice quite small portions of our Art.] Here then we get another reason for grouping or re-grouping the corporations for qualifying purposes, or for granting to individual corporations the power "to hold qualifying examinations in medicine, surgery, and midwifery, for the purpose of granting a diploma or diplomas conferring the right of registration under the Medical Acts."

Present Portals to the Profession.—As a result of this legislation some seven qualifications to practise have, for practical purposes, disappeared, these need not be further specified (*vide Med. Reg. for 1912, p. xcii*), leaving, however, still some twenty-three different portals of entrance to the profession, which we may thus epitomise (for fuller details *vide Med. Reg., 1912, pp. xc, xci*):—

1. Roy. Coll. Phys., Lond.	Licentiate or L.R.C.P. Lond.	Practically obsolete standing alone.
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2. Roy. Coll. Phys., Lond., Roy. Coll. Surg., Eng.	L.R.C.P., M.R.C.S.	The common English portal known as the exam. of the Conjoint Board in London.
3. Roy. Coll. Phys., Edin. Roy. Coll. Surg., Edin. Roy. Fac. of Phys. and Surg., Glas.	L.R.C.S. Edin., L.F.P.S.G.	Joined together under the Medical Acts.
4. Roy. Coll. Phys., Irel. Roy. Coll. Surg., Irel.	L.R.C.P. & S. & L.M. Ireland.	Formed under the Medical Acts.
5. Apoth. Soc., Lond.	L.S.A.	Full qualification by Acts of Parliament, 1815, 1874, 1886, 1907.
6. Apoth. Hall, Dublin.	L.A.H. Dub.	Full qualification by agreement with G.M.C.
7. Universities of Oxford, Cambridge, Edinburgh, Aberdeen, Glasgow, St. Andrews, Dublin.	All granting M.B. and either B.S. or Ch. B.	Under charters or other ancient documents un- disturbed by modern legislation so far as a portal is concerned.
14. Durham, London.	"	Under comparatively modern charters making them portals.
16. Manchester, Birmingham, Liverpool, Leeds, Sheffield, Bristol, Nat. Univ. of Ireland, Queen's Univ., Belfast.	"	All under quite modern Acts of Parliament definitely making them portals (<i>vide</i> above).
17. Univ. of Wales.	Definitely a portal (<i>vide</i> footnote p 14).	

In thus speaking of "portals" I have omitted all reference to "additional titles" (*Medical Act*, 1886, *Sec.* 16) which are mere advertisements and not of fundamental importance from a legal point of view, but *vide* next page and p. 44.

PUBLIC HEALTH CERTIFICATES.

With the exceptions of the Apothecaries' Society of London, the Royal College of Physicians of London, the Royal College of Surgeons of England (either acting alone), the Apothecaries' Hall, Dublin, all the above also grant registrable diplomas or certificates for proficiency in Sanitary Science or Public Health, familiarly known as a D.P.H. (for more exact information *vide Med. Reg.*, 1912, p. xciii).

The importance of this lies in the fact that without such certificate in some form from some corporation it is so difficult as to be practically impossible to obtain the post of Medical Officer of Health (*vide pp. 207 et seq.*).

ADDITIONAL QUALIFICATIONS.

It not infrequently happens that a student of medicine is anxious to "qualify" at the earliest possible moment; afterwards he finds it necessary or to his advantage to take what, for some reason (being able to call himself "Dr." or to add "M.D., or the "Member of a College of Physicians" or "Fellow of a College of Surgeons," etc.), he considers a higher qualification. Under such circumstances he may, of course, be able and willing to go back in his career and take the preliminary examinations of some university and also spend the necessary time in residence for that object, all the Universities are, of course, open to him, but more often he looks round for an examination which will serve his purpose without residence. The following corporations offer him what he wants, *i.e.*, the examinations for their higher diplomas or degrees are open to qualified and registered medical men without any necessary terms of residence, though, of course, with certain conditions as to the nature of the examinations themselves.

IN MEDICINE.

Corporation.	Higher qualification.
Roy. Coll. Phys., Lond.	Membership.
" " " Edinburgh.	"
" " " Ireland.	"
Durham University.	M.D. offered to men twenty years in practice.
London University.	No residence required, but somewhat intricate conditions of courses of study for M.B. and M.D.

IN SURGERY.

Corporation.	Higher qualification.
Roy. Coll. Surg. Eng.	Fellowship.
" " " Edinburgh.	"
" " " Ireland.	"

For full particulars of the conditions the calendars and special publications of the various bodies must be consulted.

MEDICAL REGISTER *v.* MEDICAL DIRECTORY.

I think it is well to draw the attention of medical practitioners to the difference between the Medical Register, which is a

strictly legal volume, and Churchill's Medical Directory, which is merely a private volume of information relative to medical men, though probably referred to several thousand times more frequently than is the Register.

It cannot be too forcibly impressed on the professional mind, however, that it is from the Register that official, and therefore legal and valid (for legal purposes), information is sought regarding any medical man who is brought or brings himself within the cognisance of the law.

CHAPTER II

ACTS RELATING TO THE GENERAL CONTROL AND LEGAL STATUS OF THE PROFESSION AS A WHOLE

In Chapter I. several Acts were mentioned which, as a matter of fact, deal with a wider aspect of affairs than the mere internal control which any of the corporations exercises over its graduates. Indeed it may be said that practically all the charters of the licensing bodies, as opposed to the universities, do this to some extent, for the charters were only granted on quasi-public grounds, and internal discipline was a mere incident, intended, no doubt, better to secure the safety of the public, the Apothecaries Act, 1815, and the charter of the Royal College of Surgeons are very good illustrations. For all this it would seem to have been perilously easy, prior to 1858, for any person entirely ignorant of any acquaintance with a medical school, and absolutely innocent of any medical training, to pose as a medical man and make a living out of the ignorant fears of the people.

We have now to consider a considerable number of Acts of Parliament through the direct and indirect effects of which this state of things was mended. I cannot say completely ended, for blatant quackery is still flourishing, and apparently as far off extinction as ever, but it no longer enjoys any genuine protection from, or recognition by, the law, and its followers have to be more careful than they used to be lest they get into trouble.

The general effect of the Acts we are going to discuss has been undoubtedly to raise the status of the whole profession in the eyes of the public, for men of intelligence appreciate that discipline leads to efficiency and a high standard of conduct, and assuredly these Acts together constitute discipline, of no mean order, for all registered medical practitioners.

The following is a chronological list of the Acts contained in this chapter :—

1858.

“21 & 22 Vic. cap. 90. *An Act to regulate the Qualifications of Practitioners in Medicine and Surgery, Aug. 2, 1858.*” Known in other Acts as the principal Medical Act of 1858, *vide* below, p. 38.

1859.

"22 Vic. cap. 21. *An Act to amend the Medical Act, 1858, Apr. 19, 1859,*" gave an extra six months for original registration of men in practice: made membership of the Royal College of Physicians of London, and of the Royal College of Physicians of Edinburgh, registrable: gave men with foreign diplomas the right of acting as resident medical officers in hospitals for the relief of foreigners in sickness. Is of no further importance now.

1860.

"23 Vic. cap. 7. *An Act to amend the Medical Acts, Mar. 23, 1860,*" made "*The Diploma or Licence in Surgery granted by any University of that part of the United Kingdom called Ireland, legally authorised to grant the same*" . . . a registrable qualification and sufficient for practice and again extended the time for original registration. Is of no further importance and was only passed to remove a doubt on the point whether the surgical licence in question was sufficient for registration.

1860.

"23 & 24 Vic. cap. 66. *An Act to amend the Medical Act, 1858, Aug. 6, 1860.*" Had reference to the grant of a new charter to the Royal College of Physicians of London and of Edinburgh, and to the charter altering the name of King's and Queen's College of Physicians in Ireland to the Royal College of Physicians of Ireland, it merely confirmed the privileges of these corporations and their responsibilities, whether under their new or old names. It requires no further mention.

1862.

"25 & 26 Vic. c. 91. *An Act to incorporate the General Council of Medical Education and Registration of the United Kingdom and for other purposes. Aug. 7, 1862.*"

The incorporation with consequent powers and privileges may be noted here. The "other purposes" have reference solely to the British Pharmacopœia and will be found on p. 110.

1868.

"31 & 32 Vic. cap. 29. *An Act to amend the Law relating to Medical Practitioners in the Colonies.*" Entirely repealed by the Act of 1886 and of no further interest. It referred to practice in the Colonies and colonial registration,

1876.

In this year two Acts were passed viz., "39 & 40 Vic. c. 40. *An Act for enabling legally qualified Medical Practitioners to hold certain public medical appointments and for amending the Medical Act.* Aug. 11, 1876."

A short Act of only two effective clauses, one of which declared that all legally qualified medical practitioners shall be capable of being elected surgeons to county infirmaries or hospitals in Ireland, and the other that the degree of Bachelor of Surgery obtained from any university of the United Kingdom legally authorised to confer the same shall be registrable as a qualification under the Medical Act.

Both clauses are of little interest now.

"39 & 40 Vic. c. 41. *An Act to remove Restrictions on the granting of Qualifications for Registrations under the Medical Act on the ground of Sex.* Aug. 11, 1876." The Act is very short, with only one effective clause, which runs as follows :—

"1 *The powers of every body entitled under the Medical Act to grant qualifications for registration shall extend to the granting of any qualification for registration granted by such body to all persons without distinction of sex. Provided always, that nothing herein contained shall render compulsory the exercise of such powers, and that no person who but for this Act would not have been entitled to be registered shall, by reason of such registration, be entitled to take any part in the Government, management, or proceedings of the Universities or Corporation mentioned in the said Medical Act.*"

This needs no comment, as the last citadel in London, the Conjoint Royal Colleges, has now fallen beneath the determined assaults of the "weaker sex," and they are admitted to its examinations, as to practically all others in the United Kingdom.

1878.

"41 & 42 Vic. c. 33. *An Act to amend the Law relating to Dental Practitioners.* July 22, 1878" (*vide* below, pp. 63 *et seq.*).

1883.

"46 & 47 Vic. c. 19. *The Medical Act (1858) Amendment Act,*" was entirely repealed by the 1886 Act and is of no interest now, it gave a representative on the General Medical Council to the Royal University of Ireland; the University no longer exists.

1886.

"49 & 50 Vic. c. 48. *An Act to amend the Medical Acts.*
June 25, 1886" (*vide* below, pp. 58 *et seq.*).

1905.

"5 Edw. 7, c. 14. *An Act to amend the Medical Act, 1886.*
Aug. 11, 1905." A short Act of one effective clause stating that
"*where any part of a British possession is under a central and also under a local legislature His Majesty may . . . declare that the part which is under the local legislature shall be deemed a separate British possession.*"

I am indebted to the Registrar of the Gen. Med. Council for the following notes on the Act of 1905.

By an Act which was passed in 1905 to amend the Medical Act, 1886 (5 Edw. 7, c. 14), it became possible for Part II. of the Medical Act, 1886, to be extended to any part of a British Possession which is under a central and also under a local legislature. That is to say, it became possible for reciprocal relations in regard to medical practice to be established between the United Kingdom and the various provinces of Canada without waiting for that country as a whole to make such arrangement.

Nova Scotia, Quebec, and Prince Edward Island have availed themselves of their opportunity, and probably other provinces would have done the same, but that in 1906 the Canada Medical Act was passed. This provided for the establishment of a Medical Council of Canada, subject to the various provinces passing the necessary legislation. Clause 5 reads as follows:—

"5. The purposes of the Council shall be to promote and effect—

"(a) the establishment of qualification in medicine, such that the holders thereof shall be acceptable and empowered to practise in all the provinces of Canada ;

"(b) the establishment of a register for Canada of medical practitioners, and the publication and revision from time to time of such register.

"(c) the determination and fixing of the qualifications and conditions necessary for registration, including the courses of study to be pursued by students, the examinations to be undergone, and generally the requisites for registration ;

"(d) the establishment and maintenance of a board of examiners for examination and granting of certificates of qualification ;

"(e) the establishment of such a status of the medical profession in Canada as shall ensure recognition thereof in the United Kingdom, and enable Canadian practitioners to acquire the right to registration under the Acts of the Imperial Parliament known as the Medical Acts ;

"(f) the enactment, with the consent and at the instance of the medical councils of the various provinces of Canada, of such pro-

vincial legislation as is necessary to supplement the provisions of this Act and to effect the foregoing purposes. 2 Edw. VII., c. 20, s. 4."

It appears that the necessary Provincial legislation is being passed gradually, and there seems to be ground for hope that the difficulties may be overcome and that the Medical Council of Canada may be established before very long.

* * * * *

" *The Medical Act, 1858*

(21 & 22 Vic. c. 90)."

Judged by the Preamble this Act had but one object, but several others sprang out of that, which we may thus enumerate and tabulate.

1. The establishment of the General Medical Council with power over—

- (a) Educational curricula and professional examinations.
- (b) Internal discipline.

2. The establishment of the Medical Register, drawing thus a very hard and fast line between the registered and the unregistered.

3. Secured certain privileges for the registered—

- (a) The right to sue for professional fees.
- (b) Exemption from serving compulsorily certain offices.
- (c) The sole right to sign medical certificates required by Act of Parliament.
- (d) The sole right to certain public official appointments.
- (e) The sole right to use certain professional titles.

4. Imposed penalties for falsely registering or pretending to be registered. [The penalties are now fixed by Perjury Act, 1911.]

5. Made the British Pharmacopœia the official standard for drugs, etc.

What it did *not* do, though some people think it ought to have done—

- 1. Put any check on the trade in patent medicines.
- 2. Impose any restrictions on "sweating" the profession or on "undercutting of fees."
- 3. Put any check on quackery, Christian science, bone-setting, etc.
- 4. By implication only did it impose any restriction on unregistered practice, and those restrictions are of the slightest.

The individual sections of the Act are separately so important that the Act must be broken up for comment, but we cannot leave the Act as a whole without drawing the reader's special attention to an article by Sir Donald MacAlister on the General

Medical Council which incidentally traverses nearly the whole Act, and from which article we shall make, by permission, numerous full quotations. (*Brit. Med. Jour.*, October 6th, 1906, since published in pamphlet form).

* * * * * * *

“ Preamble : Whereas it is expedient that persons requiring Medical Aid should be enabled to distinguish qualified from unqualified practitioners : be it therefore enacted.”

On this preamble Sir Donald remarks (slightly altered and condensed)—“ The Act set up machinery for, as it were, ‘ hall-marking ’ the qualified practitioner, but the public were left free to seek ‘ medical aid ’ from the unqualified if they liked. The qualified men were subjected to a new central control and discipline, they obtained no monopoly of practice, they were afforded no special protection against the uncontrolled unqualified practitioner, whose vested right to practise was carefully respected (by Sec. 17, now obsolete), as it has been in the Dentists Act of 1878, and in the Midwives Act of 1902. This care for the unqualified shows the mood of Parliament, and so long as this mood prevails I do not see much chance for a Bill that is to put down quackery with a strong hand.”

“ If an unqualified man takes to himself six other persons as unqualified as himself and registers the compound individual as a joint stock company he can call himself what he likes, he is no longer ‘ a person ’ (of the Act), but a corporation.”

It seems to the author that Sir Donald has here slipped into error, or else the author has misunderstood his meaning, for by Sec. 27 of the 1886 Act, under the head of “ Definitions,” it is stated that in “ this Act ” the word “ person ” includes a body of persons, corporate or not corporate.¹

FORMATION AND INTERNAL MANAGEMENT OF GENERAL MEDICAL COUNCIL.

Sec. III.

“ A Council, which shall be styled ‘ The General Council of Medical Education and Registration of the United Kingdom ’ . . . shall be established, and Branch Councils for

¹ On referring this to Sir Donald he replied : “ The Definition in the 1886 Act applies only to ‘ this Act.’ Judicial decisions since 1878 (when the Dentists Act was passed) have taken away any seeming force in the definition quoted. They have ruled that a personal offence, *e.g.*, taking a title, can only be committed by a real person, and that a personal penalty can only be enforced against a real person.” The decisions on this point under the Dentists Act are most instructive. He adds “ you would need to consult a lawyer to get at the effect of the judge-made law.”

² Referred to in the notes as the G.M.C.

England, Scotland, and Ireland, respectively, formed thereout as hereinafter mentioned."

Sec. IV. (Repealed by the Act of 1886 and made to run then as follows, Sec. 7 of the 1886 Act).

" . . . the General Council shall consist of the following members, that is to say :—Five persons nominated from time to time by (His) (Her) Majesty with the advice of the Privy Council, three of whom shall be nominated for England, one for Scotland and one for Ireland :

" One person chosen from time to time by each of the following bodies :—

We must here insert Sec. 10 of the 1886 Act.

" 10.—(1) The General Council may at any time represent to the Privy Council all or any of the following matters :—

- (a) That it is expedient to confer on any University or other body in the United Kingdom capable of granting a medical diploma, not being one of the constituent bodies for the time being of the General Council, and being, in the opinion of the General Council, of sufficient importance to be worthy of such a privilege, the power of returning a member to the General Council, either separately or collectively with any other body or bodies in the same part of the United Kingdom capable of granting a medical diploma :*
- (b) That it is expedient to confer on any constituent body for the time being returning a member to the General Council collectively with any other body or bodies, and being, in the opinion of the General Council, of sufficient importance to be worthy of such a privilege, the power of returning a member to such council separately :*
- (c) That it is expedient to confer on the registered medical practitioners resident in any part of the United Kingdom the power of returning an additional member to the General Council :*
- (d) That it is expedient that any constituent body having, in the opinion of the General Council, so diminished in importance as not to be entitled to such privilege, should either be wholly deprived of the power of returning a member to the General Council, or be deprived of the power of returning a member separately, and permitted to return a member collectively with some other body or bodies."*

(2) and (3) certain formalities to be gone through in Parliament

to render decisions of Privy Council effective on any of the above representations.

In accordance with this section and by virtue of certain Acts of Parliament (noted in Chapter I.) the G.M.C., in January, 1912, is composed as follows, one person from each of the following :—

Royal College of Physicians of London.
Royal College of Surgeons of England.
Apothecaries' Society of London.
University of Oxford.
University of Cambridge.
University of Durham.
University of London.
Victoria University of Manchester.
University of Birmingham.
University of Liverpool.
University of Leeds.
University of Bristol.
Royal College of Physicians of Edinburgh
Royal College of Surgeons of Edinburgh.
Royal Faculty of Phys. and Surg. of Glasgow.
University of Edinburgh.
University of Glasgow.
University of Aberdeen.
University of St. Andrews.
¹*Royal College of Physicians of Ireland.*
Royal College of Surgeons in Ireland.
Apothecaries Hall of Ireland.
University of Dublin.
National University of Ireland.
Queen's University of Belfast.

The University of Sheffield is by its Act entitled to return a member.

“ Three persons elected from time to time by the registered medical practitioners resident in England.”

“ One person ,, ,, in Scotland.”

“ One person ,, ,, in Ireland.”

Sec. VI. Provides for the formation of branch Councils for England, Scotland and Ireland out of their respective representatives.

Sec. VIII. Term of serving on Council, five years, capable of re-appointment or re-election.

¹ Previously known as King's and Queen's Colleges of Physicians.

Sec. IX. Rules and regulations for time and place of meeting and mode of summoning : President may summon a meeting if he likes : appointment of acting President : quorum to be eight : Chairman a casting vote : formation of committees.

Sec. X. Appointment of Registrar, Treasurer, and other servants of the Council.

Sec. XI. Appointment of Branch Registrars.

Sec. XII. Fees for attendance and travelling expenses.

Sec. XIII. Accounts to be kept.

COMMENTS ON THESE SECTIONS.

Sec. IV. The constitution of the G.M.C., though not of much *direct* interest or importance to general practitioners, has a profound influence *indirectly*, not only upon them, but also upon the corporations whence they derive their diplomas or degrees.

On this point we cannot do better than quote sentences from Sir Donald MacAlister.

“ In 1882 a Royal Commission had reported as follows :—

“ While we insist that the reason of the existence of the G.M.C. is the interest of the public, we cannot but recognise the vital interest of the whole Medical Profession in the Constitution of that Body. It seems to us highly important that the Profession should have full and complete confidence in the Council, and seeing that the governing Bodies of the Medical Corporations . . . can hardly be said to represent the great majority of practitioners, we think it advisable to give the general practitioner an effective voice in the Body which will be the principal authority of the Medical Profession.”

The result of this report was the alteration noted above in replacing Sec. IV. of the 1858 Act by Sec. 7 of the 1886 Act, fixing the direct representatives at five, with certain powers to increase the number.

With regard to the Representatives of Corporations, Sir Donald proceeds :—

“ The duty and responsibility of appointing, not obedient *delegates*, but good *members*, were imposed on each of its constituent bodies and sections. Every Board has its member on the Council, and they have a common interest in urging that its suggestions in any direction shall be carried out. Suppose now that the Council has passed a resolution for the improvement in some particulars of the requirements of one or more of the constituent bodies. The resolution does not come as an order from an autocratic bureau—*sic volo sic jubeo*. It comes from a Council

on which the Body concerned has as much voice as any other. The Body may not wholly agree with the resolution, but it gave the Council the highest sanction in its power by sending a member to represent it: were the Body in the majority, passing the resolution, it would expect the minority to respect the decision, and it can do no less than respect such decision when it happens to be amongst the members forming the minority. Each such member is in immediate touch with the governing body of his corporation to whom he can explain and commend the Council's decision and make clear the scope and bearing of the resolution."

"It is," Sir Donald goes on, "I am convinced, largely owing to the representation of the bodies upon the Council, and to the potent motives which, with our British temperament we deduce from that representation, that the influence of the Council with the bodies so far outmeasures its actual powers. The only compulsion is the internal compulsion of a high self-respect which makes bodies unwilling to do less than their compeers for the common good."

"Government, with the consent of the governed, freedom limited only by necessary checks on the abuses which would destroy the freedom and efficiency of others."

* * * * *

Secs. VI. to XIII. are of no general interest to the profession at large, dealing as they do entirely with the internal economy and constitutional procedure of the G.M.C., at the same time one must refer the reader to the remarks later on, where the highest legal powers in the land speak in the very strongest possible terms of the excellent way in which the forms of procedure have been carried out and obeyed, and have thus gained for the precedents established by the Council almost the value and weight of an Act of Parliament.

Registration.

Secs. 14, 15, 16 (17 obsolete), 25, 26, 27, 30, 31, 32 (33 obsolete), 34, 35, 39, 40, refer to this matter.

FORMATION AND PUBLICATION OF THE REGISTER.

Sec. XXVII. Provides that the Registrar shall annually publish "The Medical Register," a copy of which shall be evidence in all Courts that the persons therein specified are registered: and the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered till rebutting documentary evidence is produced that he is registered.

HOW TO REGISTER.

Sec. XV. Fixes five pounds as the fee for registration, on payment of which (personally or through the post) registration is made on application by the person and (a) production of evidence (Diploma) of having passed a given recognised examination, or (b) the appearance of his name in a list of those who have passed sent to the Registrar by the Corporation granting the Diploma.

Sec. XXV. Provides for branch entries of Registration getting into the main register.

"Sec. XXX. Every person registered under the Act who may have obtained any higher degree or any qualification other than the qualification in respect of which he may have been registered, shall be entitled to have such higher degree or additional qualification inserted in the Register in substitution for or in addition to the qualification previously registered on payment of such fee as the Council may appoint."

(The fee is one pound).

Sec. XXVI. Provides for the production of satisfactory and proper evidence that the person claiming registration or additional registration is entitled to the same.

ADVANTAGES OF BEING REGISTERED AND DISABILITIES FROM NOT BEING SO.

Sec. XXXI. is somewhat altered by the Act of 1886, Sec. 6 of which is the present form of XXXI., and runs as follows :—

"After June, 1887, a registered Medical practitioner shall, save as in this Act mentioned,"

(the exceptions are almost entirely retrospective and have no present interest)

"be entitled to practise Medicine, Surgery and Midwifery in the United Kingdom, and (subject to any local law) in any part of (Her) (His) Majesty's Dominions, and to recover in due course of law in respect of such practice any expenses, charges in respect of medicaments or other appliances, or any fees to which he may be entitled, unless he is a fellow of a College of Physicians, the fellows of which are prohibited by bye-law from recovering at law their expenses, charges or fees, in which case such prohibitory bye-law . . . may be pleaded in bar of any legal proceedings . . ."

“ *Sec. XXXII. After January 1st, 1859, no person shall be entitled to recover any charge in any Court of Law for any Medical or Surgical advice, attendance, or for the performance of any operation, or for any medicine which he shall have both prescribed and supplied, unless he shall prove upon the trial that he is registered under this Act.*”

“ *Sec. XXXIV. After January 1st, 1859, the words legally or duly qualified medical practitioner, or any words importing a person and recognised by law as a medical practitioner or member of the medical profession, when used in any act of Parliament shall be construed to mean a person registered under this Act.*”

“ *Sec. XXXV. Every person who shall be registered under the provision of this Act shall be exempt, if he shall so desire, from serving on all juries and inquests whatsoever, and from serving all corporate, parochial, ward, hundred and township offices, and from serving in the Militia . . .*”

Sec. XXXVI. No person who is not registered can hold any public medical post.

Sec. XXXVII. No medical certificate under any Act of Parliament valid unless certifier is registered.

FALSE EVIDENCE FOR PURPOSES OF REGISTRATION.

Sec. XXXIX. repealed, and to be replaced now by the Perjury Act, 1911, Sec. 6 of which runs as follows :—

“ *If any person—*

- (a) *Procures or attempts to procure himself to be registered on any register or roll kept under or in pursuance of any public general Act of Parliament for the time being in force of persons qualified by law to practise any vocation or calling ; or*
- (b) *Procures or attempts to procure a certificate of the registration of any person on any such register or roll as aforesaid . . . by wilfully making or producing or causing to be made or produced either verbally or in writing, any declaration, certificate, or representation which he knows to be false or fraudulent, he shall be guilty of a misdemeanour and shall be liable on conviction thereof on indictment to imprisonment for any term not exceeding twelve months or to a fine, or to both such imprisonment and fine.*”

PENALTIES FOR FALSE REPRESENTATION OF BEING REGISTERED.

“ Sec. XL. Any person who shall wilfully and falsely pretend to be or take or use the name or title of a physician, doctor of medicine, licentiate in medicine and surgery, bachelor of medicine, surgeon, general practitioner or apothecary, or any name, title, addition, or description implying that he is registered under this Act, or that he is recognised by law as a physician or surgeon, or licentiate in medicine and surgery, or a practitioner in medicine, or an apothecary, shall upon a summary conviction for any such offence pay a sum not exceeding twenty pounds.”

Little comment is required upon most of these sections : they are very clear and explicit. There is, however, a word of warning to be given to newly qualified men, viz., that an unregistered practitioner is no better off in many respects than an unqualified one ; therefore, do not forget to send your fee and register directly after passing your final qualifying examination. The procedure is simplicity itself and is, indeed, half done for you under Sec. 15, though the author has reason to believe that the act of registration is not infrequently neglected or postponed.

Sec. XL. is open to much criticism, from both a professional and a lay aspect. It would seem, on the one hand, to offer a good deal of protection to the profession and the public against quacks, yet, on the other, this protection is very illusory, for it has not stated who can prosecute, and certainly has not explicitly, even if implicitly, given the G.M.C.¹ power to do so, while a private prosecution is always made to appear a matter of jealousy and personal ill-feeling, and rogues and charlatans of all sorts have been very tenderly dealt with in their clever endeavours to avoid the “ wilfully and falsely pretend ” clause.

It is precisely here that practitioners are apt to scold the G.M.C. for supineness in not prosecuting quacks, forgetting that no power to do so has been given to it.

In February, 1908, Mr. S. G. Lushington says : “ In my opinion all the reported cases have turned upon the same point and the real contest has always been whether it has been conclusively proved that the accused has been guilty of a wilfully false pretence or not.”

NON-PENAL REMOVAL FROM REGISTER.

“ Sec. XIV. It shall be the duty of the Registrars to keep their respective Registers correct in accordance with the pro-

¹ The G.M.C. has claimed and exercised this power.

ions of this Act and the orders and regulations of the General Council, and to erase the names of all registered persons who shall have died, and shall from time to time make the necessary alterations in the addresses or qualifications of the persons registered under this Act: and to enable the respective registrars duly to fulfill the duties imposed upon them it shall be lawful for the Registrar to write a letter to any registered person, addressed to him according to his address on the register, to enquire whether he has ceased to practice, or has changed his residence, and if no answer shall be returned to such letter within the period of six months from the sending of the letter it shall be lawful to erase the name of such person from the Register: provided always that the same may be restored by direction of the General Council should they think fit to make an order to that effect."

Under Sec. 16 (not quoted above) the G.M.C. is empowered to make regulations having for their object the maintenance of the accuracy of the Register. Now one of these regulations is that from time to time the Registrar shall send to every registered practitioner an ordinary letter of enquiry as to the continued existence of the said practitioner and as to his residence according to the above Sec. 14. These letters should be attended to and answered *at once*, not only for the sake of the accuracy of the Register, which all of us have a common interest in maintaining, but also because it may get mislaid or forgotten, and then trouble is very likely to arise.

Such neglect is certainly a man's own fault, but the section is quite uncompromising and cases of hardship do from time to time arise; from an accident of the post, or of the postal arrangements made by a practitioner when changing his address, the arrangements indeed may be beyond his control, as in the case where a man has only registered the address of his consulting room in a large city office, and the man in charge neglects, or finds it impossible, to forward letters.

Should a practitioner find himself thus, by carelessness or accident, off the Register he must, if he wishes to be restored, write at once to the Branch Registrar, who will then send him the following printed form:—

RESTORATION FORM.

FORM OF APPLICATION

FOR RESTORATION TO THE MEDICAL REGISTER under SECTION XIV. of the MEDICAL ACT (1858), to be filled up and

forwarded, with the Statutory Declaration appended, and the prescribed Restoration Fee of ONE POUND, to

The Registrar of the Branch Medical Council for England,
299, OXFORD STREET, London, W.,

or Scotland, 54, George Square, Edinburgh,
or Ireland, 35, Dawson Street, Dublin.

1. I hereby apply to be restored to the Medical Register, from which my name has been removed pursuant to the provisions of Section XIV. of the Medical Act (1858), and I hereby declare that I have completed this application in my own handwriting :—

Name (in full)
Applicant's usual Signature
*Address (in full)
*Registered Qualifications
Date of this Application
Place and Date of Applicant's Birth
†Date and Place of Original Registration

2. Standing Order of the GENERAL MEDICAL COUNCIL in regard to such restorations :—

“ No application for the restoration to the Medical or Dentists' Register of the name of a person which has been removed under Section 14 of the Medical Act (1858) or Section 12 of the Dentists' Act (1878), shall be entertained unless it be accompanied by a Statutory Declaration made by the applicant setting forth the facts of the case, and stating that he is the person originally registered, and by a certificate from two registered practitioners as to his identity, or in the case of an applicant residing abroad a certificate signed by two persons, who shall be magistrates or officers holding a commission in one of His Majesty's Services, Civil, Naval or Military.”

3. CERTIFICATES of IDENTITY in terms of the foregoing STANDING ORDER :—

No. 1. (No. 2 is identical.)

I hereby certify that the aforesaid Applicant is the above-specified
.....
whose name formerly stood on the MEDICAL REGISTER with
the following Address and Qualifications :—

†.....
§Name
Address

Registered Qualifications, or Commissions.

Date

*Here insert Applicant's present Address and Qualifications originally registered.

†Here insert whether originally registered in London or Edinburgh, or Dublin, and the date of such Registration.

‡Here insert Applicant's former Address and registered Qualifications.

§Here insert Name and Address of Person Certifying.

STATUTORY DECLARATION FORM.

(i.) I, the undersigned*
of†
now holding the Qualification of‡
do solemnly and sincerely declare as follows :

(ii.) That I am the person originally registered as
.....
with the Qualifications

And I make this Declaration conscientiously believing the same to
be true, by virtue of the Statutory Declarations Act, 1835.

(Signed)

Declared at

on

Before me,

.....

A Commissioner for Oaths.

This Declaration must be made before a Commissioner to
administer Oaths, or before a Justice of the Peace, and a 2s. 6d.
stamp should be affixed.

* Insert full Name. † Insert Address. ‡ Insert Qualifications.

The Form needs no explanation, but we may incidentally
remark that restoration is quite worth the trouble and expense.
If it is neglected, a practitioner may find that, *e.g.*, his certificates
of death are not recognised by the Registrar of Births and
Deaths.

A letter from the Registrar to the author states : “ In order
that there may be no unnecessary delay, the Council has
authorised the Registrar of each Branch to restore names on the
completion of the prescribed formalities.”

Disciplinary Powers of the G.M.C.

A.—OVER LICENSING BODIES.

Secs. XVIII., XX., XXI., XXII., XXIII. deal with these
matters.

Sec. XVIII. gives the Council power to require from degree- or
diploma- granting bodies information as to the Courses of Study
and Examination necessary to be gone through to obtain such
degree or diploma, including the ages at which students may
study or qualify : it also gives it power to attend and be present
by deputy at any examination.

“ Sec. XX. *In case it appear to the General Council that the
Course of Study and Examinations to be gone through in
order to obtain any such qualification from any such
College or Body are not such as to secure the possession of
persons obtaining such qualification of the requisite know-*

ledge and skill for the efficient Practice of their Profession, it shall be lawful for such General Council to represent the same to (His) (Her) Majesty's Most Honourable Privy Council."

Sec. XXI. gives power to the Privy Council to refuse registration of any so reported qualification, or to have the Course of Study and Examination altered to suit their requirements.

Sec. XXIII. gives power to the Privy Council, on the representation of the General Council, to prevent any Body from imposing :—

" An obligation to adopt, or refrain from adopting, the practice of any particular theory of Medicine or Surgery as a test or condition of admitting a person to examination or of granting a certificate . . ."

In the comments on Sec. 4, the " Constitution of the Council," we have already quoted very freely Sir Donald MacAlister's views on the general principle contained in these sections, and here we again quote the same authority on the special application of those principles to the education and examinations provided by the various licensing bodies over which the G.M.C. thus exercises a profound influence.

Thus, on education, Sir Donald remarks :—

" The G.M.C. has done nothing to weaken the individuality of the Universities and Corporations or to check emulation between the teaching institutions of the country, for competition between a multiplicity of teaching bodies, as such, tends to the advancement of education. The institution which *cæteris paribus*, affords the most efficient teaching will have the best reputation, and be the most resorted to. The interest involved is the interest of improvement."

Sir Donald is very right in a general sense, but the pecuniary condition of the London Schools of Medicine as it at present (in 1912) exists, is a painful illustration of what unrestricted competition of this sort may do in a comparatively small locality.

" As regards examination," he continues, " this interest (of improvement) is not so clear. If a Board is notoriously easy-going, not students only, but their teachers, their parents, the profession and the public know it. The practitioner finds that he can only get a 9-carat diploma from that Board, and he pretty soon learns that he starts on his career with the stamp of a 9-carat man.

" On this possible downward tendency of examination strictness the State has established a check (*vide* below, p. 58), in

that it has supported the G.M.C. in its determination to secure a certain minimum of stringency to secure efficiency in practice of the essential branches of medicine, surgery, and midwifery. So effectual has been the created existence of this power in the hands of the G.M.C. that only once has it had to express its final verdict of 'insufficiency' with respect to any one of the licensing boards. The board in question no longer exists."

In London for many years the idea of an 18-carat diploma for a 9-carat examination, and the question of whether certain examinations are 9 or 18-carat, have been very passionately discussed; possibly the Commission sitting in 1912 may find a solution.

B.—OVER REGISTERED PRACTITIONERS.

Secs. 28 and 29

"Sec. XXVIII. If any of the said Colleges or the said bodies at any time exercise any power they possess by law of striking off from the list of such College or body the name of anyone of their members, such College or body shall signify to the General Council the name of the member so struck off; and the General Council may, if they see fit, direct the registrar to erase forthwith from the register the qualification derived from such College or body in respect of which such member was registered, and the registrar shall note the same therein: Provided always that the name of no person shall be erased from the register on the ground of his having adopted any theory of medicine or surgery."

"Sec. XXIX. If any registered medical practitioner shall be convicted in England or Ireland of any Felony or Misdemeanour or in Scotland of any crime or offence, or shall after due enquiry be judged by the General Council of having been guilty of infamous conduct in any professional respect the General Council may, if they see fit, direct the registrar to erase the name of such medical practitioner from the register."

Sec. 28 might be said to relax discipline in that it carefully safeguards the man whose only crime is that he had adopted "a theory of medicine or surgery," this man's trouble begins when he attempts to make known to the public by any device of advertisement that he has adopted a "theory of medicine or surgery": the common commencement of this is that an organ of the press, of no great reputation for medical accuracy, takes the matter up and publishes broadcast the wonderful results that have accrued from the adoption of the theory together with the

man's name and address. Such notoriety then leads to an interview or correspondence with the G.M.C., when it is open to the man in question either to prove that he is more sinned against than sinning, in other words, that the newspaper articles are inserted without his knowledge or against his expressed desires, or, per contra, he can stick to his guns and attempt to prove that his action is not "infamous conduct" (*vide* below), or again he may prefer to be disregistered and put up with the consequences. (Dr.) Allinson offers a case in point.

The only direct, definite, legal authority of the G.M.C., sanctioned by the Act is contained in the words of sec. 29, "or shall, after due enquiry, be judged to have been guilty of infamous conduct in any professional respect," and it is from "due enquiry," "judged," and "infamous conduct," there has sprung up a very sturdy tree of case-governed law: for a full history of this we can only refer the reader to the minutes of the G.M.C., which are open to all legitimate inspection, but an outline of it we must now sketch, aided by quotations from Sir Donald MacAlister's address.

Due Enquiry.

Sir Donald (*loc. cit.*) says: "By successive judicial decisions it has been laid down that in its procedure the Council, sitting as a tribunal, must as nearly as possible follow the forms and rules customary in other Courts. But it has no authority to compel the attendance of witnesses, to administer oaths, or to call for the production of documents. It has only one judgment to give when a charge is proved to its satisfaction, namely, 'guilty of infamous conduct in a professional respect'; and only one sentence when judgment is given, namely, erasure from the register."

From this judgment and sentence, given after proper enquiry and without malice, the High Court of Justice has pronounced that there is no appeal.

"In the earlier years of the Council's life its decisions were frequently called in question before the ordinary courts of law. . . . the judgments delivered on these appeals not only defined, but, in effect, expanded the jurisdiction of the Council. They laid down its procedure; they interpreted broadly the meagre language of the Statute, and they settled beyond dispute the penalty of its decisions on all cases within its competence."

"In 1863 the Lord Chief Justice and his colleagues of the Queen's Bench laid it down that Sec. 29 'makes the G.M.C. sole judge of whether a medical practitioner has been found guilty of

infamous conduct in a professional respect ' ; and this Court has no more power to review their decision than they would have . . . of determining whether the facts had justified a conviction for felony or misdemeanour under the first part of the Sec. . . . this Court cannot interfere, for the G.M.C. is the tribunal to whom the Legislature has left the decision as being the best judges in the matter."

" In another appeal Lord Justice Bowen made very similar remarks."

" Lord Justice Fry added : Inquiry, judgment and guilt are all words which express, and which are relevant to a proper form of judicial proceedings, and therefore, although the G.M.C. proceeds by different rules of evidence from those on which Courts of Law proceed, I cannot, for a moment, doubt that the Council was proceeding judicially ; nor can I help adding that the manner in which the Council has proceeded on this as on all other enquiries shows that the Council is fully aware that it is performing judicial duties, and endeavours evidently to perform them in a very admirable manner."

This opinion of Lord Justice Fry is a great tribute to the care of G.M.C. to make its inquiries " due " within the meaning of the Act.

PROCEDURE IN TRIALS FOR INFAMOUS CONDUCT.

As this work is intended for practitioners, we may give an account of the procedure from the commencement.

Let us imagine that someone, registered, or otherwise, is, in the opinion of a practitioner, carrying on medical practice in a manner, or by means, which, to the practitioner, appear to be harmful, or derogatory, to the profession, what steps can he take to stop the scandal or the practice ?

Undoubtedly, by all rules of ethics and sound conduct, his first step should be to try personal persuasion, either by interview, or by a courteously worded letter, which may indeed suffice ; but as it scarcely ever happens that this method is adopted (this is no place to enquire into the reasons for this failure), we must see what law and custom have to say on the subject.

Undoubtedly, custom has drifted into the following very admirable procedure. The aggrieved practitioner brings his grievance before one of two classes of *quasi* public bodies, *i.e.*, on the one hand his local Medical Society, or his division of the British Medical Association ; or, on the other hand, one of the two Medical Protection Societies (he deserves precious little sympathy if he does not belong to at least one or the other), and

from that time onwards the procedure is laid down for him by the rules of such societies.

[It is true that under the 1886 Act, so far as it relates to Dentists, at any rate, he has power to institute a prosecution on his own initiative. The Medical Act, 1886, sec. 26, under the heading "Dentists," distinctly says "a prosecution for any such offences may be instituted by a private person," but we believe that this has not been acted upon for a long time (if ever), and may be regarded as disused, though not repealed officially. Sir Donald MacAlister writes, "cases have occurred before magistrates."]

The Society will then enquire into the matter, and according to its decision will, or will not, bring it to the notice of the G.M.C. The G.M.C. in its turn considers the evidence thus laid before it, and may dismiss the case as one on which (many reasons may compel them so to act) it cannot take action, or, on the other hand, may take the case up, in which case it may, of course, merely go to the extent of warning the person in question that his conduct has been brought to its notice, and advising him to stop the practice in question, or it may take more serious cognisance of the matter and issue a notice to the accused and to the accusers that the case will be tried on a certain day.

All this detail is very simple and straightforward, the essential difficulty has not yet been mentioned, it is this—witnesses. No trial can take place without witnesses, and inasmuch as a private person, a Medical, or Medical Protection, Society, and even the G.M.C. itself, has no powers to subpoena and summon even a single witness, the whole case has to rely upon either voluntary witnesses or upon documentary evidence voluntarily produced. There is no need to enlarge upon this defect in the Medical Acts, but the reader will easily discover for himself that this is the sole and only reason why more cases are not brought before the G.M.C. Again, when the witnesses are in Court there is no power provided by the Act to put them on oath; this, however, is not of much real significance, for the moral, as opposed to strictly legal, power of the G.M.C. is so great that objectionable practices can be, and are, stopped without it being necessary to decide whether witnesses for prosecution or defence are telling "the truth, the whole truth, and nothing but the truth," for the G.M.C. can postpone a case to see what happens, and this postponement bodes no good to those who are exaggerating or perverting the truth on either side.

On the other hand, let us consider the procedure of the practitioner complained of. He must, in the first place, seriously

consider his position in the light of the complaints that have reached him, whether from an individual, an Association, or the Medical Tribunal in the shape of the G.M.C.

If, after very grave and serious consideration, he feels that his conscience is uneasy, let me advise him at once to desist from the practice that has caused the offence. If, on the other hand, he chooses to set everyone at defiance, let him be prepared to face the consequences, which will be severe, and include not only "being struck off the Register," but probably also ostracism by his medical brethren ; there may be matters of conscience which compel him so to act, though it is difficult to imagine them.

If, as another alternative, he decides to fight the case on its merits, he must then prepare his defence, and certainly the best way to do this is to consult a solicitor and place the matter in his hands ; he will then have to prepare his arguments and request his witnesses to attend, and the case will go on as in a Court of Law, with reasonable limits for examination and cross-examination.

The verdict may be acquittal, or it may possibly take the shape of "the case was postponed till the next session," which is a serious warning that he had better reconsider his position in the interval, for, if he does not, the next verdict is practically certain to be guilty of "conduct infamous in a professional respect."

When all the witnesses have been examined at sufficient length, the jury—that is, the members of the G.M.C. acting as one body¹—directs the public to withdraw while they consider their verdict and sentence, which are then delivered *coram publico*, and probably published in medical and often in lay journals or daily papers.

Infamous Conduct.

We have now to consider somewhat carefully what constitutes infamous conduct. It is here interesting, and very instructive, again to quote Sir Donald MacAlister, who says (*loc cit.*) :—

"The meaning and scope of the statutory verdict of the Council—guilty of infamous conduct in a professional respect—were given by the definition of the Court of Appeal in 1892, viz., "if it is shown that a medical man, in the pursuit of his profession, has done something with regard to which it would be reasonably regarded as disgraceful or dishonourable by his professional brethren of good repute and competency, then it is open to the Council to say

¹ The Penal Cases Committee of the G.M.C. only acts as an advisory committee for preliminary consideration of cases, deciding whether there is a *prima facie* case for enquiry.

that he has been guilty of infamous conduct in a professional sense."

He then goes on: "The Council's own judgments in a succession of actual cases, decided by it after due enquiry, have gradually built up a body of precedents and rulings which may fairly be described as forming the Common Law of Medicine."

"The judge's definition contains within it a principle which is in essence evolutionary—as the standard of professional competency becomes higher, as the conscience of men of good repute becomes ethically more exacting, so the area within which the Council can exercise its discipline expands."

He then illustrates this evolution and expansion by two examples (*a*) the gradual recognition of the idea that it was reprehensible to "cover" an unqualified man so that now such covering is "infamous conduct." (*b*) "Advertising and canvassing" on which we must quote Sir Donald quite fully.

"More recently the practice of issuing objectionable advertisements, or of employing or sanctioning the employment of canvassers, with the object of procuring patients, was brought before the Council in connection with particular flagrant cases. Each case had to be dealt with on its merits—or demerits. The character of the objectionable advertisement varied: in some cases the canvassing or touting was direct; in others it was carried on through the agency of a Club or Association, or Dispensary. Sometimes the case was strenuously fought, in others the accused practitioner preferred to discontinue the practice complained of, and submitted himself to the clemency of the Council. Once more (referring to 'covering'), when the time was ripe, and the various forms assumed by the mischief were fully apprehended, a 'warning notice' was issued as before. This pointed out the public detriment and professional discredit attaching to such unworthy methods of attracting practice, and gave notice that practitioners who employed them, or sanctioned their employment, were liable to the penalty of erasure from the Register." He adds: "the Council does in fact formulate, and by formulation makes explicit, fresh applications of the Law to the growing complexity of modern conditions. And what is more important, in doing so it carries with it the consensus and approval of 'professional men of good repute and competency. The average conscience is quickened, and what was once tolerated is, in the end, repudiated and discountenanced."

It is difficult to give concrete examples as so much depends on the moral circumstances surrounding the case.

* * * * *

REMAINDER OF THE ACT.

Sec. XLI. provides the method of recovering the penalty under Sec. 40, and that the obstinate may get three months instead.

Sec. XLII. These penalties to go to the General Council for (43) expenses, of which (44) accounts are to be kept.

Sec. XLV. provides for notice of the registration of the death of a medical practitioner to be sent to the General Council.

Sec. XLVIII. Power granted to the Royal College of Surgeons of England to institute examinations, etc., for Dentistry.

The British Pharmacopœia established by law and placed in the care of the General Council for revision as often as it shall think necessary.

Secs. XLVII., XLIX., X., XIII., concern themselves with the Charters of various Corporations, and are of no general interest to practitioners.

ADDENDUM.

By the courtesy of the Chairman and the Registrar of the G.M.C., I am enabled to add a note derived from a perusal of documents in the possession of that body ; as this work is not intended for a lawyer's reference book, I have however not added any of the arguments to which I have had access.

"Convictions (for criminal offences) of registered practitioners are now reported in all cases to the Registrar, and unless the offence is of a comparatively trivial character" [foolish conduct under the accidental influence of alcohol, *e.g.*] "the practitioner is summoned, and the conviction being proved, his name is removed from the Register ; the Council does not go behind the evidence [and verdict] given at the trial." (13 cases before the G.M.C. up to 1909, 8 removals).

The offences for which the Council has in recent years exercised its domestic jurisdiction are :—

1. Immoral relations with a patient, if these arise in any way out of the professional relations between the parties (up to 1909, 10 cases, 7 removals of name).

2. For covering an unqualified man. [The meaning of this phrase is generally well understood in ordinary practice, but it is well to draw the general practitioner's attention to the fact that in broad general terms it includes administering an anæsthetic for an unregistered dentist ; though the Council has not yet disregistered a man for so doing, it has undoubtedly got its eye on the practice, and I have no doubt would consider the habitual act as "infamous conduct."] (Up to 1909, 10 cases, 3 removals).

3. For advertising or canvassing for patients, which includes

acting as medical officer of a society which systematically advertises and canvasses for patients.

"Of other charges there have been one for alleged fraudulent sale of a practice, one for giving certificates to excuse school attendance without having seen the child."

THE MEDICAL ACT OF 1886.

"49 & 50 Vic. c. 48. *An Act to amend the Medical Acts.* June 25, 1886."

The principal objects of this Act were to define more exactly the standard of qualification for registration: to allow of the expansion of the G.M.C. by the admission of representatives from new corporations and additional direct representatives; to lay down regulations as to the standard of qualification for registration of Colonial and foreign diplomas and degrees enabling the possessors to practise in England; to effect a few miscellaneous changes in the law relating to practice.

Sec. 2. No person to be registered unless he has passed an examination in medicine, surgery, and midwifery "*as is in this Act mentioned.*"

"Sec. 3.—(1) *A qualifying examination shall be an examination in medicine, surgery, and midwifery, held for the purpose of granting a diploma or diplomas conferring the right of registration under the Medical Acts by any of the following bodies. (a) Any University in the United Kingdom or any medical corporation, legally qualified at the passing of this Act, to grant such diploma or diplomas in respect of medicine and surgery; (b) any combination of two or more medical corporations in the same part of the United Kingdom who may agree to hold a joint examination . . . and of whom one at least is capable of granting a diploma in medicine and one at least . . . in surgery.*" (c) Any combination of Universities with one another or with corporations.

"(2) *The standard of proficiency . . . shall be such as sufficiently to guarantee the possession of the knowledge and skill requisite for the efficient practice of medicine, surgery, and midwifery; it shall be the duty of the General Council to secure the maintenance of such standard of proficiency; and for that purpose . . . inspectors . . . shall be appointed by the General Council . . . and shall attend all or any of the qualifying examinations.*"

(3) These inspectors shall report on the examinations to the General Council and it, in turn, to the Privy Council who, under sec. 4 may take action if the examinations are insufficient.

Under sec. 5 the General Council may supply examiners to

any corporation unable to combine under sec. 3,¹ and these examiners shall maintain the requisite standard.

Secs. 6 and 7 (*vide* above, p. 40 in the 1858 Act), p. 41 and p. 42.

Sec. 8. Regulations as to the election of "direct representatives" of the medical profession.

- (1) They must be registered practitioners.
- (2) Elected for five years capable of re-election.
- (3) Entitled to fees like the other members.
- (4) The President of the General Council to be the returning officer for the election and shall issue his precept for the election.
- (5) Must be nominated in writing and nomination signed by at least twelve practitioners.
- (6) Election by voting papers sent to all qualified to vote, but election shall not be void by omission of sending voting papers in any particular case or cases.
- (7) Each voter may vote for as many candidates as there are vacancies.
- (8) Death vacancy only filled at the date of election not at the date of death.

"Sec 10. *The General Council may at any time represent to the Privy Council all or any of the following matters :—*

- "(a) *That it is expedient to confer on any University or other body . . . capable of granting a medical diploma . . . and being of sufficient importance . . . the power of returning a member of the General Council, either separately or collectively with any other body . . . capable of granting a diploma.*"
- (b) *that it is expedient to allow any Body a separate representative instead of a collective one.*
- "(c) *That it is expedient to confer on the registered medical practitioners resident in any part of the United Kingdom the powers of returning an additional member to the General Council.*"
- (d) *That it is expedient to deprive any Body of its separate or collective member.*

(2) and (3) Such representation must be laid before both Houses of Parliament. Either House of Parliament may object, but if they or it do not do so, then an order in Council may make the matter law.

¹ I am informed that the G.M.C. does supply examiners for one such Corporation.

COMMENTS ON PART I. SECS. 1—10.

That this part (after nearly 30 years' experience) contains so little in the way of amendment to the procedure and powers and functions of the G.M.C. is perhaps the very strongest testimonial to the honour, honesty, and high principles and efficiency of that body.

Sec. 2 was found to be necessary because certain boards only examined in one or two of the three main branches.

Sec. 3 is another tribute to the fairness of the G.M.C. and gives it wider powers over examinations and affords some "standard of efficiency" for its use.

Sec. 4 is to examinations very much what sec. 20 of the 1858 Act was to educational courses.

PART II.—COLONIAL AND FOREIGN PRACTITIONERS. SECS. 11—18.

"Sec. 11. . . . Where a person shows to the satisfaction of the registrar of the General Council that he holds some recognised colonial medical diploma or diplomas (as defined by sec. 13) granted to him in a British possession to which this Act applies, and that he is of good character, and that he is by law entitled to practise medicine, surgery, and midwifery in such British possession, he shall on application to the said registrar and on payment of such fee, not exceeding five pounds, as the General Council may from time to time determine, be entitled without examination in the United Kingdom to be registered as a colonial practitioner in the Medical Register."

"Provided he proves that the diploma was granted when he was not domiciled in the United Kingdom, or in the course of a period of not less than five years during the whole of which he resided out of the United Kingdom."

Sec. 12 makes a similar provision to sec. 11 as regards recognised foreign diplomas, when he is registered as a foreign practitioner.

"Sec. 13.—(1) The medical diploma [for secs. 11 and 12] shall be such as may be recognised by the General Council as furnishing a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of medicine, surgery and midwifery" (vide table below).

The Privy Council may be appealed to and its decision either way may override the General Council.

Secs. 14, 15, 16 provide for the insertion in the Medical register of the names and qualifications thus recognised.

"Sec. 17. His Majesty may from time to time by Order in Council declare that this part of the Act (Secs. 12 to 18) shall be deemed, on and after a day to be named in such order, to apply to any British

possession or foreign country which in the opinion of His Majesty affords to the registered medical practitioners of the United Kingdom such privileges of practising in the said British possession or foreign country as to His Majesty may seem just. . . ." until and unless such order has issued the Act does not apply.

Vide comments on the 1905 Act above, on p. 37.

Sec. 18. Any Colonial diploma as above recognised entitles the possessor to hold the appointment of medical officer to any vessel registered in that British possession.

COMMENTS ON PART II.

This part is of considerable interest and importance to those men who, by design or circumstances, find themselves obliged to study out of the United Kingdom, and yet eventually wish to practise within it; for their information I append two tables taken from the Medical Register of 1912 showing their position from the point of view of registration in England.

TABLE SHOWING THE SEVERAL DEGREES GRANTED IN BRITISH POSSESSIONS WHICH (PURSUANT TO SECTION 11 OF PART II. OF THE MEDICAL ACT, 1886) ARE REGISTRABLE IN THE COLONIAL LIST.

Licensing Body.	Registrable Qualifications.		Abbreviation for Registration.
	Title.	Nature of Qualification as stated on Diplomas.	
University of Adelaide ..	M.B. Ch.B. M.D. Ch.M.	Medicine and Surgery	Univ. Adelaide.
University of Bombay ..	Lic. Med. Surg. M.D.	Medicine and Surgery	Univ. Bombay.
University of Calcutta ..	Lic. Med. Surg. M.B. M.D.	Medicine and Surgery	Univ. Calcutta
University of Malta ..	M.D.	Medicine and Surgery	Univ. Malta.
University of Madras ..	Lic. Med. Surg. M.B. M.S. M.D.	Medicine and Surgery	Univ. Madras.
University of Melbourne ..	M.B. M.D.	Medicine and Surgery	Univ. Melbourne.
University of New Zealand	B.S. M.B. Ch.B. M.D.	Medicine and Surgery	Univ. N. Zealand.

62 MED. ACT, 1886: COLONIAL QUALIFICATIONS

TABLE SHOWING THE SEVERAL DEGREES, ETC.—*continued*.

Licensing Body.	Registrable Qualifications.		Abbreviation for Registration.
	Title.	Nature of Qualification as stated on Diplomas.	
Punjab University ..	Lic. Med. Surg. M.B. M.D.	Medicine and Surgery	Univ. Punjab.
University of Sidney ..	M.B. M.D. M.Ch.	Medicine and Surgery	Univ. Sydney.
Ceylon Medical College ..	Lic. Med. Surg.	Medicine and Surgery	Ceylon Med. Coll.
Nova Scotia, Provincial Medical Board.	Lic. Med. Surg.	Medicine and Surgery	Nova Scotia Prov. Med. Board.
Dalhousie University ..	M.D., Mast. Surg.	Medicine and Surgery	Dalhousie Univ.
Halifax Medical College..	M.D., Mast. Surg.	Medicine and Surgery	Halifax Med. Coll.
McGill University ..	M.D., Mast. Surg.	Medicine and Surgery	McGill Univ
Laval University ..	M.D.	Medicine and Surgery	Laval Univ.
Prince Edward Island Medical Council ..	Lic. Med. Surg.	Medicine and Surgery	Med. Co. Prince Ed. Island.

TABLE SHOWING THE SEVERAL DEGREES GRANTED IN FOREIGN COUNTRIES WHICH (PURSUANT TO SECTION 12 OF PART II. OF THE MEDICAL ACT, 1886) ARE REGISTRABLE IN THE FOREIGN LIST.

Part II. of the Medical Act, 1886, having been applied to Italy by an Order in Council dated March 9th, 1901, the Degrees of Doctor of Medicine and Surgery of all the Royal Italian Universities are registrable in the foreign list.

Part II. of the Medical Act, 1886, having been applied to Japan by an Order in Council dated December 11th, 1905, the degrees, of Bachelor of Medicine (*Iga Kushi*) and Doctor of Medicine (*Igaku Hakushi*) of the Imperial University of Japan are registrable in the foreign list.

Any of these degrees will under the Act permit the possessor to proceed to register and obtain all the advantages of registration. It is quite probable that both lists may be extended in the

future. They form what may be termed a "reciprocal favoured nation" clause for medical practice. Previous to the passing of this Act there were 27 Universities and corporations the M.D. degree of which could be entered in the medical register as "additional titles." Sec. 16 of the Act has put a stop to this unless the M.D. was obtained before 1886. The full list is to be found in the *Med. Reg.*, 1912, p. xciv.

PART III. SECS. 19 TO THE END.

Sec. 19. Secures to the Privy Council the right and duty of keeping the General Council up to its duties either of omission or commission.

Sec. 20. Provides for the registration of M.R.C.P. Ireland, and M.O. of any University in the United Kingdom.

Sec. 21 provides for the recognition and registration of a reputable D.P.H. (for a list of these *vide* p. 31, *ante*).

Sec. 24. A saving clause protecting any man registered before 1886 in England and (sec. 25) in the Colonies.

Sec. 27. Under the heading of "Definitions" it is distinctly stated that the word "person" includes in this Act, a body of persons corporate or not corporate.

These sections do not require any comment except an expression of the pity that sec. 27 definition of a "person" should not be made applicable to all the Medical Acts.

DENTISTS ACT, 1878

(41 & 42 Vict. c. 33).

"An Act to amend the Law relating to Dental Practitioners. July 22, 1878."

"Preamble, whereas it is expedient that provision be made for the registration of persons specially qualified to practise as dentists in the United Kingdom, and that the law relating to persons practising as dentists be otherwise amended—be it therefore enacted.

"Sec. 2. In this Act General Council means the General Council of Medical Education and Registration of the United Kingdom established under the Medical Act, 1858. Medical Authorities means the bodies and Universities who choose members of the General Council. British Possession means any part of Her (His) Majesty's dominions exclusive of the United Kingdom. Medical Authorities means the bodies and Universities who choose members of the General Council (for list vide p. 41).

"Sec. 3. From and after Aug. 1, 1879, a person shall not be entitled to take or use the name or title of 'dentist' (either alone or in

combination with any other word or words), or of dental practitioner or any name, title, addition, or description implying that he is registered under this Act or that he is a person specially qualified to practise dentistry, unless he is registered under the Act. [penalty £20] provided that nothing in this section shall apply to legally qualified medical practitioners."

Sec. 4.—(1) He shall not be guilty of an offence under this Act :

" (a) If he shows that he is not ordinarily resident in the United Kingdom and that he holds a qualification which entitles him to practise dentistry or dental surgery in a British possession or foreign country, and that he did not represent himself to be registered under this Act ; or

" (b) name erased only because he has ceased to practise."

" A prosecution . . . may be instituted by a private person, [Med. Act, 1886, sec. 26, par. 2], or by the Gen. [Med.] Council or by a medical authority if such Council or authority think fit."

Sec. 5. A person registered under this Act shall be entitled to practise dentistry and dental surgery in any part of Her (His) Majesty's dominions and after Aug. 1, 1879, no one not registered under this Act or The Medical Acts shall be entitled to recover dental fees in any court.

Sec. 6. Lets in all already qualified or who are *bona fide* engaged in dentistry at the passing of the Act.

Sec. 7. Provides the means of registration after qualification, and then proceeds : " A person resident in the United Kingdom shall not be disqualified for being registered under this Act by reason that he is not a British subject ; and a British subject shall not be disqualified . . . by reason of his being resident or engaged in practice beyond the limits of the United Kingdom."

Sec. 8. Provides for colonial dentists being registered without coming to England for examination.

Sec. 9. Provides for the registration of foreign dentists with certificates recognised in his own country.

Sec. 10. Defines the certificates deemed to be recognised in sec. 9 giving the " recognition " into the hands of the Gen. Med. Counc. with appeal to the Privy Council.

Sec. 11. The registrar to keep register of Dentists, home, colonial and foreign, which shall be evidence of registration.

Sec. 12.—(1) The registrar shall insert alterations.

(2) Shall erase deceased dentists.

(3) The general registrar may erase from the dentists' register with consent, a person who has ceased to practise :

" and the general registrar may send by post to a person registered in the dentists' register a notice enquiring

whether or not he has ceased to practise, or has changed his residence ; and if the general registrar does not, within three months after sending the notice, receive any answer thereto from the said person, he may, within fourteen days after the expiration of the three months, send him by post in a registered letter another notice, referring to the first notice, and stating that no answer thereto has been received by the registrar, and if the general registrar either before the second notice is sent receives the first notice back from the dead letter office of the Postmaster General, or receives the second notice back from that office, or does not within three months after sending the second notice receive any answer thereto from the said person, that person shall, for the purpose of the present section, be deemed to have ceased to practise, and his name may be erased accordingly."

" Sec. 13. The General Council shall cause to be erased from the dentists' register any entry which has been incorrectly or fraudulently made.

" Where a person registered in the dentists' register has either before or after the passing of this Act, and either before or after he is so registered, been convicted either in Her Majesty's dominions or elsewhere of an offence which if committed in England would be a felony or misdemeanour, or been guilty of any infamous or disgraceful conduct in a professional respect that person shall be liable to have his name erased from the register.

" The General Council may, and upon the application of any of the medical authorities shall, cause inquiry to be made into the case of a person alleged to be liable to have his name erased under this section, and, on proof of such conviction or of such infamous or disgraceful conduct, shall cause the name of such person to be erased from the register.

" Provided that the name of such person shall not be erased under this section on account of his adopting or refraining from adopting the practice of any particular theory of dentistry or dental surgery, nor on account of a conviction for a political offence out of Her Majesty's dominions, nor on account of a conviction for an offence which though within the provisions of this section, does not, either from the trivial nature of the offence or from the circumstances under which it was committed, disqualify a person for practising dentistry.

" Any name erased from the register in pursuance of this section shall also be erased from the list of licentiates in dental surgery or dentistry of the medical authority of which such person is a licentiate."

Sec. 14. If erased by the G.M.C. a name cannot be restored except by the G.M.C. or " a court of competent jurisdiction."

The G.M.C. may restore it gratis or on payment of a fee. If erased at request, or by consent, of the individual may be restored on payment of a fee, but not if it might otherwise have been erased under sec. 13.

Sec. 15. The G.M.C. for purposes of secs. 13 and 14 shall act through a committee of their own body not less than 5, quorum 3—the G.M.C. shall appoint and maintain such a committee (standing committee)—Committee may regulate its own procedure—may employ legal aid at the expense of the G.M.C.

Sec. 16. Fee for registration five pounds.

Sec. 17. G.M.C. may make and alter regulations for registration and fees therefor.

Sec. 18. Gives power to all the medical authorities (*vide* sec. 2) who have power for the time being to grant surgical degrees, to grant a diploma in dental surgery on complying with the authority's regulations and passing the authority's examinations.

Secs. 19 and 21. Provide for the appointment of Boards of examiners by certain medical authorities, and then secs. 20, 22, 23, 24, 25, 26, 28 make provisions for such Boards being controlled by the G.M.C. and Privy Council in every respect comparable with the similar provisions made by the Medical Act of 1858 in regard to general medicine and surgery (*vide, ante*, p. 49), and in fact sec. 28, par. 4, runs "*The General Council shall have the same power of making rules respecting the examination of persons desiring to obtain certificates of being qualified to practise dentistry or dental surgery, as they have for the time being in respect of the examination of persons desiring to obtain a qualification to practise medicine and surgery and there shall be the same right of appeal to the Privy Council against such rules.*"

"*Sec. 27. A certificate under the Act shall not confer any right or title to be registered under the Medical Act, 1858, in respect of such certificate, nor to assume any name, title or designation implying that the person mentioned in the certificate is by law recognised as a licentiate or practitioner in medicine or general surgery.*"

Sec. 29. Makes the Dental register equally official with the Medical register (*vide* p. 43).

Sec. 30. Is identical with sec. 35 of the Med. Act (*vide* p. 45), giving exemption to a dentist from serving juries, &c.

Sec. 31. Powers of Privy Council.

Sec. 32. Gives the G.M.C. wide powers in the disposal of the money paid under this Act.

Sec. 33. Accounts to be kept.

Sec. 34. Penalty on a Registrar for falsifying register in any way.

Sec. 35. Repeats sec. 39 of Med. Act. (*vide* p. 45). Penalty for attempting fraudulent registration now governed by the Perjury Act.

Sec. 36. Repeats sec. 45 of Med. Act, report of death of dentists to Registrar.

Sec. 37. Obsolete referred to students before the Act.

Sec. 38. Refers to bye-laws of medical authorities and of the G.M.C. and gives those bodies power to alter them by proper steps.

"Sec. 39. . . . *All notices and documents required by or for the purposes of this Act to be sent may be sent by post and shall be deemed to have been received at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such sending it shall be sufficient to prove that the letter containing the document or notice was prepaid and properly addressed and put in the post . . . when sent to the General Council . . . shall be deemed to be properly addressed . . . if addressed to the principal office or place of business . . . and when sent to a person registered in the medical [or dental] register . . . if addressed to him according to his address registered in that register.*"

Sec. 40. Mode of recovery of fees as an ordinary debt to the G.M.C. and of penalties by certain legal procedures.

COMMENTS ON THE ACT.

This Act is to dentists what the Medical Act of 1858 is to ordinary medical practitioners, one or two of the important sections, *e.g.*, 30, 35 and 36, being expressed in practically identical terms, and the whole tenour of the Act is the same, *viz.*, to enable the public to distinguish the registered from the unregistered dentist, and to exert discipline over, in exchange for certain privileges granted to, the registered, and the same authority, *viz.*, the Gen. Med. Council, is placed over dentists and doctors. Upon those who are both, either Act may be enforced.

As we have dealt pretty fully with the Medical Act we need only to draw attention here to the main points of difference.

Curiously enough in the Dentists Act there is no section having the force of sec. 28 (*vide* p. 51) of the Medical Act and this omission led to the only serious rebuff the G.M.C. has ever received—from the High Courts of Justice—case of H. F. Partridge disqualified by his licensing body for advertising, and forthwith disregistered by the G.M.C.; but the triumph of Mr. Partridge quickly rebounded, and having restored him the G.M.C. promptly disregistered him under sec. 13.

Sec. 3 leads to just the same trouble as sec. 40 of the Medical Act and cases are decided on much the same evidence and with the same difficulty, but public opinion seems to be gradually squeezing such cases out of existence, though persons coming under sec. 6 are still too numerous.

Sec. 12 (3) should be carefully studied lest accidents occur (*vide* sec. 14 of the Med. Act, p. 46). It will be noted that the actual duties of the registrar differ slightly under the two sections, though the difference is in practical working immaterial and the same trouble has to be taken in each case to rectify errors (*vide* p. 47). Sec. 39 is worth attention in connection with sec. 12.

The attention of dentists must also be drawn to sec. 26 of the Medical Act of 1886 wherein it is expressly stated that "*notwithstanding anything in sec. 5 of the Dentists Act the right of any person . . . to practise dentistry . . . in any part of Her Majesty's dominions other than the United Kingdom (England Scotland, and Ireland by definition) shall be subject to any local law in force in that part.*"

CHAPTER III

ACTS RELATING TO BIRTHS AND DEATHS: CERTIFICATES OF THE SAME: POST-MORTEM EXAMINATIONS: CREMATIONS: CORONERS

BIRTHS, their certification and registration are included in this chapter for the reason that the Act of 1874 includes them with deaths by the obvious connection of Census purposes, moreover, dead-born children form no small item in death legislation. The other subjects enumerated above have the very constant nexus of a dead body and legislation dealing with it.

The following is a simple list of the Acts noted in this chapter.

RELATING TO BIRTHS.

Registration of Births and Deaths Act, 1874 (*vide* pp. 70 and 74).
Notification of Births Act, 1907 (*vide* p. 71).

RELATING TO DEATHS AND POST-MORTEMS, ETC.

The Anatomy Act, 1832 (*vide* p. 81).
" " Amendment Act, 1871 (*vide* p. 82).
Registration of Births and Deaths Act, 1874 (*vide* pp. 70 and 74).
Coroners Act, 1887 (*vide* p. 99).
" " 1892 (*vide* p. 100).
Cremation Act, 1902, and its Rules and Regulations (*vide* p. 89).

But for purposes of reference we add the following Acts though they are more or less repealed by that of 1874.

" 6 & 7 Will. 4, c. 86. *An Act for registering births, deaths, and marriages in England.*"

This appears to be the first Act to replace the old Bills of Mortality, it refers in its preamble to 52 Geo. 3, c. 146 as insufficient.

" 7 Will. 4 and 1 Vict. c. 22. *An Act to amend and explain the above.*"

" 21 & 22 Vic. c. 25. *An Act to amend . . . the Acts for marriages and registering births, deaths and marriages in England and concerning vaccination.*"

IRELAND.

I have two Acts of Parliament bearing on the subject in Ireland, *viz.*, " 26 Vic. c. 11. *An Act for the Registration of Births*

and Deaths in Ireland. April 20, 1863," which was largely amended by "43 & 44 Vic. c. 13. *An Act to amend the Law in Ireland relating to the Registration of Births and Deaths.* Aug. 2, 1880,"

the medical sections of which so closely follow the English Act that they hardly require separate mention and discussion, and will not be further noticed.

REGISTRATION OF BIRTHS AND DEATHS ACT, 1874.

"37 & 38 Vic. c. 88. *An Act to amend the Law relating to the Registration of Births and Deaths in England and to consolidate the Law respecting the registration of Births and Deaths at Sea.* Aug. 7, 1874."

PART. I.—BIRTHS.

The first eight sections of the Act and "7 Edw. 7, c. 40. *An Act to provide for the early notification of Births.* Aug. 28, 1907," refer to this matter.

"Sec. 1. *In the case of every child born alive . . . it shall be the duty of the father and mother of the child and in their default of the occupier of the house . . . and of each person present at the birth . . . to give to the registrar within 42 days next after such birth information to the registrar and to sign the register.*

Sec. 2. Provides for the personal attendance of the above persons if the notice is not sent by post.

"Sec. 6. *Any person required by this Act to give information who removes before such birth is registered out of the sub-district may within three months make and sign a declaration of the particulars required in the presence of the registrar of the sub-district in which he now resides; and such registrar on payment of the appointed fee shall receive and attest the declaration. . . .*

"Sec. 8. . . . *The provisions of this section shall apply with the prescribed modification in the case of births at sea . . .*"

As a link so to speak between the registration of births and that of deaths I here insert sec. 18 of the Act of 1874 which contains the law upon still-born children.

"Sec. 18. *A person shall not wilfully bury or procure to be buried the body of any deceased child as if it were still-born.*

"*A person who has control over or ordinarily buries bodies . . . shall not permit to be buried . . . the body of any deceased child as if it were still-born, and shall not permit to be buried or bury any still-born child before there is delivered to him either :—*

"(a) *A written certificate that such child was not born alive, signed by a registered medical practitioner who was in*

attendance at the birth or has examined the body of such child ; or

¹“(b) *A declaration signed by some person who would if the child had been born alive, have been required by this Act to give information concerning the birth, to the effect that no registered medical practitioner was present at the birth, or that his certificate cannot be obtained, and that the child was not born alive ; or*

“(c) If there has been an inquest, an order of the Coroner.

“Any person who acts in contravention of this section shall be liable to a penalty not exceeding ten pounds.”

NOTIFICATION OF BIRTHS ACT, 1907.

“Sec. 1.—(1) In the case of every child born in an area in which this Act is adopted it shall be the duty of the father of the child, if he is actually residing in the house where the birth takes place at the time of its occurrence, and of any person in attendance upon the mother at the time of, or within six hours after, the birth, to give notice in writing of the birth to the medical officer of health of the district.

“(2) Notice under this section shall be given by posting a prepaid letter or postcard . . . within thirty-six hours after the birth or by

¹ In this connection I give the following form for use by midwives as laid down by the rules of The Central Midwives Board appointed under the Midwives Act of 1902.

(c) Form of Notification of Stillbirth.

To the Local Supervising Authority of the *Administrative
County of
or *the County Borough of
or *the Urban or Rural District of

I, the undersigned, being a Midwife holding the Certificate
No. of the Central Midwives Board, hereby notify that, on
the. day of. 19...., ...
living at
was delivered { *by me
 { *before my arrival (B.B.A.)
of a still-born child, no registered medical practitioner being in
attendance at the time of birth.

Sex
Full term or premature (No. of months)
Condition of child (whether macerated or not)
Presentation
Name of Midwife
Address of Midwife
.....

* Strike out the words not applicable.

personal delivery of a written notice . . . ; the local authority shall supply without charge addressed and stamped postcards containing the form of notice to any medical practitioner . . . who applies for the same.

" (3) Any person who fails to give notice of a birth . . . shall be liable . . . to a penalty not exceeding twenty shillings. Provided that he shall not be liable . . . if he satisfies the Court that he had reasonable grounds to believe that notice had been duly given by some other person.

" (4) This notification . . . shall be in addition to and not in substitution for the requirements of any Act relating to the registration of births. . . .

" (5) This notification shall apply to any child which has issued from its mother after the expiration of the twenty-eighth week of pregnancy whether alive or dead."

" Sec. 2.—(3) It shall be the duty of any local authority by whom this Act is adopted . . . to bring the provisions of this Act to the attention of all medical practitioners and midwives practising in their area."

" Sec. 3. The Local Government Board may by order declare the Act in force in the area of any local authority . . . if they think it expedient."

In Oct., 1911, I received the following letter from the L.G.B. :—

LOCAL GOVERNMENT BOARD,

WHITEHALL, S.W.

11th October, 1911.

SIR,—I am directed by the Local Government Board to advert to your letter of the 23rd ultimo and in reply to state that in October 1909 the Board issued an Order under Section 3 of the Notification of Births Act, 1907, declaring the Act to be in force in seven Metropolitan Boroughs in which the Act had been adopted by the Borough Councils.

Outside London the Act is in force only in the areas of local authorities who have voluntarily adopted the Act with the Board's consent.

I am, Sir,

Your obedient Servant,

J. S. DAVY,

Assistant Secretary.

" Sec. 4.—(4) . . . An offender failing to make payment of a penalty shall be liable to imprisonment in terms of the Summary Jurisdiction Acts."

The Act applies to Scotland and Ireland with mere local variants in the method of procedure.

NOTES AND COMMENTS ON " BIRTH " LEGISLATION.

Under the old Acts and the Act of 1874 the medical man was practically never bothered with his legal duties as " a person present at the birth," and I can find no record of one being prosecuted for neglecting to give information to a registrar, but under the new Act of 1907 there have been some half-dozen or more cases in which medical men have been summoned for not notifying the M. O. H. of the district in which the birth has occurred.

The results of the cases have been various :—

(a) The medical man has paid his fine and put up with inconvenience and loss without further to-do.

(b) He has got off under sec. 1 (3) by satisfying the Court that he had reasonable grounds to believe that notice had been duly given by someone else.

(c) He has been convicted and fined and refused to pay the fine, and gone to prison for his refusal.

It is not my concern here to discuss the rights and wrongs of the Act (we may express a hope that justice will ultimately be done to the profession) but to point out the facts to all medical men, and especially perhaps to those commencing practice in a new district, that they may remember that a penalty is attached to a breach of the law though no payment is offered for the compulsory service the law demands of the profession. In this respect clause (4) of sec. 2 is also worth noting, that notification under the 1907 Act is an addition to professional work and not a substitution of an old duty by a new one.

Dead or Alive.

The 1907 Act specifically uses the words " whether alive or dead provided that the child had reached 28 weeks of intra-uterine development." Under the older Acts the fact of " born dead " required to be certified by the signature of a medical man or proof given that such signature could not be obtained [sec. 18 (a) and (b)] and no mention was made of any period of development.

This is not the place to enter into the numerous and important questions that may arise round the question, Was this child born alive or dead ? They are very fully discussed in works on forensic medicine, but we would urge upon all medical practitioners the very serious consequences to themselves and others that may follow from any laxity in certifying that a given child was born dead. So far as we are aware no actual charges of murder have

been made under such circumstances, but certainly there are some in which medical men have been accused of wilfully signing a false certificate of "born dead," and we cannot too strongly or too frequently remind the members of our profession that such cases exert a most disastrous influence upon the public ideas of the character of the profession as a whole, quite apart from the individual instance.

If the medical man were not actually present at the birth let him always, and invariably, refuse to give such certificate (unless indeed he sees the child within a few minutes of birth and finds it in a putrefactive condition) but content himself with writing a private note to the M. O. H., in which he can state fully all he knows about the birth, not omitting to put in colourless words that his absence from the actual birth is his reason for not giving a formal certificate; he thus not only obeys the law, but conscientiously fulfils his obvious duty from which he must not be turned by any specious statements of friends, or midwives who, indeed, are recognised by the law as capable under these circumstances of making an efficient declaration.

If the child lives or gives signs of life even for a second or two, the medical man is in honour bound to give a formal death certificate whatever inconvenience it may cause to those responsible for the disposal of the body.

We think it not improbable that in the future cases may arise in which the period of intra-uterine development to which the child has reached may become a matter in dispute, because between the 24th and 28th weeks a child may certainly be born alive, but anticipation of such cases is not of much use.

Sec. 6 of the Act of 1874 would apparently apply to *locum tenens* or qualified assistants who had left one practice and gone to another, but we know of no case that has given rise to trouble for a medical man.

PART II. OF THE ACT.—DEATHS.

REGISTRATION OF DEATHS.

"Sec. 9. *The death of every person dying in England . . . and the cause of such death shall be registered. . . .*

"Sec. 10. *Where a person dies in a house . . . it shall be the duty of the nearest relatives present at the death or in attendance during the last illness . . . and in default of such relatives of each person present at the death . . . to give information to the registrar. . . .*

"Sec. 11. *Where a person dies in a place which is not a house, or*

a dead body is found elsewhere than in a house it shall be the duty of every relative . . . and in default of such relative, of every person present at death and of any person finding or taking charge of the body . . . to give information.

“Sec. 12. If a person required to give information concerning any death sends to the registrar a written notice of the occurrence of a death, accompanied by such medical certificate of the cause of death as is required by this Act . . .” delay in giving exact particulars is excusable but not to exceed 14 days.

Sec. 16. Refers to coroners’ duties of registering a death after an inquest.

BURIALS.

Sec. 17. A coroner upon holding an inquest on a body may authorise burial before registration of the death but not without holding an inquest.

A registrar upon registering a death . . . or upon receiving written notice (*vide* sec. 12) of the occurrence of a death, accompanied by a medical certificate . . . may authorise burial.

COMMENTS ON SECS. 9 TO 17.

Sec. 9 by itself is of no particular medical interest, but it explains certain figures in the annual report of the Registrar-General referring to uncertified deaths.

Secs. 10, 11, and 12 might involve a medical man in the duty of giving information of a death to a registrar, but no case seems to have arisen in the Courts in which a medical man has got into trouble for not doing so.

Sec. 12 taken together with sec. 17, par. 2, have a very strong bearing on what I have stated on p. 84, anent a medical man performing an autopsy in cases of death presenting some doubt in diagnosis. In fact they may be relied upon as giving legal sanction to the opinions there expressed and justify a medical man in acting as I have suggested, for by no other means could he give the certificate required by the Act. It is a common idea, even amongst those who ought to know better, e.g., coroners, that a medical man can, by a mere outward inspection of a body, divine the cause of death; such an idea is preposterous and ridiculous, nothing short of a complete post-mortem examination by opening all the cavities can suffice, and even that may at times be insufficient, *vide* article by the author *Med. Leg. Trans.*, Vol. III.

Sec. 17. Requires to have the words “and ordering an autopsy” added at the end so as to prevent and make illegal the scandal of an inquest without autopsy, the excuse for which at present is

“expense,” ignoring the fact that “no autopsy” often causes ten times the expense.

CERTIFICATES OF THE CAUSE OF DEATH.

Sec. 20. (1) The Registrar-General shall furnish registrars printed forms of certificates, the registrars shall in turn furnish such forms gratis to any registered medical practitioner.

(2) *“In case of the death of any person who has been attended during his last illness by a registered medical practitioner that practitioner shall sign and give to some person required by this Act to give information concerning the death a certificate stating to the best of his knowledge and belief the cause of death . . . to be delivered to the registrar.”*

(3) The coroner’s certificate is sufficient after an inquest duly held.

“If any person to whom a medical certificate is given by a registered medical practitioner in pursuance of this section fails to deliver such certificate to the registrar, he shall be liable to a penalty not exceeding forty shillings.”

Sec. 23. Gives power to superintendent registrars to prosecute for offences under this and other Acts relating to the Registration of Births and Deaths.

Sec. 28. Compels the registrars to communicate deaths to sanitary authorities.

Sec. 37. Refers to births and deaths at sea and makes the Master of the vessel responsible under a five pounds penalty.

Sec. 38. Defines the conditions under which a copy of a birth or death certificate becomes legal evidence of such birth or death.

“Sec. 39. Every person required . . . to give information concerning any birth or death . . . and every person who refuses or fails without reasonable excuse to give or send any certificate in accordance with the provisions of this Act shall be liable to a penalty not exceeding forty shillings for each offence. . . .”

“¹Sec. 40. Any person who :—

“(1) . . .

“(2) Wilfully makes any false certificate or declaration under or for the purposes of this Act, or forges or falsifies any such certificate or declaration, or any order under this Act or knowing any such certificate, declaration or order to be false or forged uses the same as true or gives or sends the same as true to any person ; or

¹ Subsections 2, 3 and 4 and the first fifteen words of subsection 1 are repealed by the Perjury Act of 1911, but as this Act does not make the punishment any easier for a medical man I leave the original words, but *vide* also p. 384.

“(3) *Wilfully makes gives or uses any false statement or representation as to a child born alive having been still-born or as to the body of a deceased person or a still-born child in any coffin, or falsely pretends that any child born alive was still-born :*

“(4) *Makes any false statement with intent to have the same entered in any register of births and deaths ; shall for each offence be liable on summary conviction to a penalty not exceeding ten pounds and on conviction on indictment to fine or to imprisonment with or without hard labour for a term not exceeding two years, or to penal servitude for a term not exceeding seven years.*”

Sec. 41. Notices may be sent by post.

Secs. 43 and 44. It shall be lawful for the Local Government Board or the Registrar-General with the consent of the Local Government Board, by order to alter any of the forms contained in the Schedules to this Act. . . .

Sec. 46. A prosecution on indictment for an offence under this Act shall be commenced within three years after the commission of such offence.

Sec. 51. Act only extends to England and Wales. Ireland being provided with a similar Act, 26 & 27 Vic. c. 11 (*vide* above, p. 69), and Scotland by 17 & 18 Vic. c. 80, also *vide* below, p. 88.

COMMENTS ON SECS. 20—51.

Sec. 20 (1), (2) have very close concern for all medical men.

A critic wrote thus of the author's lectures on Forensic Medicine : “ No book on Forensic Medicine, however small, can be complete (satisfactory) that does not contain instructions on the filling up of death certificates.” I must confess that any difficulty I can see in the procedure must rest not so much in the certificate itself as in the conscience of the medical man who fills one up. Has he acted wisely and honestly by the community in filling one up at all ; for in this particular point the State has entrusted the medical profession with very grave responsibilities (without adequate remuneration for their fulfilment be it noted) and it behoves every member of the profession to discharge these responsibilities honestly and honourably. All of which has a close bearing on the discussion on pp. 78 and 84, *re* autopsies, where indeed we have pretty fully discussed what may be termed clinical doubts, and some of the legal ones.

Another difficulty which is very frequently cropping up is this :—a medical man has been attending a patient with a disease known to be very chronic, *e.g.*, chronic Bright's, valvular heart trouble, bronchitis, phthisis, &c., &c., frequent visits cease and

the patient resumes a level of health which may last for years, possibly even he may leave the neighbourhood, the patient dies and the question at once arises at what length of time after his last visit to such a case is a doctor justified in giving a certificate (the same trouble is often enough met with in hospital out-patient practice) and what circumstances in the case render a certificate justifiable.

An illustrative case occurred to the author some years ago. An ordinary case of not-advanced phthisis came before him in the out-patients; about ten days later, instead of the patient, appeared his friends who said he was dead. This was so unexpected that he said he could not give a certificate unless he did an autopsy. Permission was at once given, and he found an ulcer of the stomach (phthisis, too, by the way) which had caused profuse and fatal bleeding into the bowel. He at once certified the case in the usual way.

Apart, however, from this solution of the difficulty which we have sufficiently discussed, a few further words must be said on the subject.

To begin with, the registrar has a conscience as well as the doctor, and the next solution that suggests itself is this—refuse a certificate of the ordinary character but offer to write a letter to the registrar, and in this letter enter fairly fully into the circumstances which have compelled you to write; the very fact of the notice of death coming to him in another form than the ordinary certificate will force his attention to the case and your responsibility will be immediately halved.

The “circumstances” which will have to be thus communicated will, of course, vary in detail very much, but they will and must contain at any rate the following: (1) the date and duration of your attendance upon the deceased and your views upon his illness at that time; (2) the circumstances under which and the reasons why (a) you ceased attending then, and (b) you have not recently been in attendance; (3) the circumstances known to you about his home surroundings—poverty or wealth, attitude of relatives, and anything you may have heard from neighbours; (4) any efforts you may have made to obtain an autopsy and the mode and manner in which these suggestions have been refused (they have been so *ex hypothesi*); (5) any details you may care to impart to him as to the history of the closing hours of life—these from your own professional knowledge and experience may have given you very strong leading indeed as to natural *v.* unnatural death.

Whatever action the registrar may take upon the case, he is bound to keep your letter, which can then be produced in evidence of reasonable care on your part.

The only other solutions are two, viz., (1) swallow all scruples and fill up a certificate, only taking care that your dates are scrupulously exact, put in the words "as I am informed" (*vide* below) and let the registrar take what steps he likes, and (2) refuse point blank to certify or write and then all responsibility rests between the registrar and the coroner. As to the circumstances which compel you to one or the other of these extreme cases, they depend so much upon conscience and the local colouring of the case that nothing useful can be said here.

When now the medical man has decided to give a certificate in the ordinary form there are still a few points to which attention may be drawn.

1. Read carefully at your leisure (and refresh your mind each time you write a certificate) the printed instructions on the first three or four pages of your book of Death Certificates.

2. Remember if you refuse a certificate without reasonable excuse you are liable to a penalty of forty shillings (read sec. 39 carefully).

"Reasonable excuse" can only mean:—

(a) Cases of uncertainty such as have been very fully discussed above.

(b) Illness or accident on your own part sufficiently severe to render you incapable of writing or signing your name.

(c) Bodily absence on your part necessitated by professional urgency.

IT CANNOT AND DOES NOT MEAN—

The non-payment of the bill for attendance, or any question of personal feeling between yourself and the deceased, or the messenger who comes for it.

3. Never *under any circumstances whatever* give a duplicate certificate to anybody, no matter what excuse is made to you as to the loss or disappearance of the original one.

The reason is this—a medical death certificate is an original document, accepted without question by registrars and undertakers, and, if there are more of them than of bodies to be buried, it is very easily conceivable that a surplus one may be used for felonious purposes—to perpetrate, or to hush up a crime; cases in which they have been so used are by no means unknown, and are possibly more frequent than is commonly supposed.

4. Only the man who was actually in attendance may sign the certificate, no one is authorised to sign on his behalf, and *a fortiori* to forge such a signature is gross felony.

5. Never sign a certificate in blank leaving the particulars to

be filled in by any unqualified (or even qualified practitioner) person; quite recently a father and son nearly got into very serious trouble over the son's use of his father's name. The author knows that some medical men do sign blank certificates in cases of temporary absences from home. Such action can seldom be detected but is grossly dishonest, is illegal, and deserves heavy punishment when found out, not to mention the terrible results that may follow if a signed blank certificate gets into unscrupulous hands.

6. Write legibly.

7. Use the names of diseases as in the Nomenclature of Diseases, an abbreviated form of which is printed in the pages of the certificate book referred to above.

8. "As I am informed," I cannot find these words anywhere in the Act and presumably they have been inserted in the Form of Certificate under a Local Government Board order or regulation under secs. 43 and 44. They convey such a world of suspicion in their very essence that it would seem inconceivable that they can possibly ever be used by an honest medical man. They stand in black deliberate and unmistakeable antithesis to the very idea of death certification—if certification means anything it means certain, fixed, or positive knowledge—and hearsay is not recognised under that definition, by English law at all events.

Possibly the following case (related to the author by one of those concerned) would not have been prevented had the words never been inserted, for the probabilities of natural death were so great that the possibility of crime never entered the head of the certifying practitioner.

A girl was living *à deux* with her father in a country cottage. She became engaged to be married to a most undesirable young man to whom her father strongly objected. The latter was ill with severe bronchitis, and the girl was in the habit of going to fetch his medicine from the doctor's surgery. On one such visit, instead of asking for medicine, she informed the doctor that her father was dead, and asked for and obtained a certificate. When placing the body in the coffin the undertaker's men found that the head had been battered in by gross violence. Suspicion and enquiry followed, when it transpired that the would-be son-in-law had battered in the old man's head in a fit of temper, and that the tale of his (natural) death had then been concocted by the girl and her lover.

For all that the case has its moral in this connection and suggests that the personal investigation by a medical man is the best safeguard. He can then with clear conscience certify not only that someone is dead, but that that someone is the patient he attended, and that, to the best of his belief, after taking reasonable care, the death was a natural one.

9. The distinction between "primary" and "secondary" is a mere technical difficulty which can cause very little more than a little temporary embarrassment to a medical man. If in any real difficulty remember that "primary" here simply refers to time and the certifier can use his discretion as to how far back he should go, to aid which discretion he will get much information from the advice on pp. iv and v of his certificate book.

The other sections call for no special comment unless it be sec. 40 pointing out the penalties for offences, any one of which, by the way, would probably be deemed by the G.M.C. as conduct infamous in a professional sense and entail removal from the Register.

Post-mortem Examinations.

"2 & 3 Will. 4, c. 75. *An Act for regulating Schools of Anatomy.* Aug. 1, 1832."

"34 Vic. c. 16. *An Act to amend 2 & 3 Will. 4, c. 75 for regulating Schools of Anatomy.* May 25, 1871" (*vide* p. 82, sec. XIII.).

THE ANATOMY ACT.

This Act is practically the Charter of the dissecting rooms of our medical schools, the bodies used in which are mainly those of persons who have died in workhouses or infirmaries, who have no relatives who can, or who care to, claim them: on this aspect of the Bill nothing more need to be said, the management of the details being in the hands of medical school authorities and of the Inspectors of Anatomy respectively, and these officials on either side have to, and do, obey the provisions of the Act with scrupulous care.

The Act is still very much alive and holds so far (I believe) the unique position of being the only Bill dealing with medical matters which has never been materially altered, amended, or repealed, in any of its sections, the only amendment is noted below and is of a very minor character.

The commencement of the preamble has already been quoted on p. xi., the latter portion of the preamble and the Bill itself run as follows—so far that is as seems desirable to quote it verbatim.

"*Preamble.* . . . That it shall be lawful for His Majesty's Principal Secretary of State . . . to grant a licence to practise Anatomy . . . to any person lawfully qualified to practise medicine . . . or to any student [of medicine] . . . on application . . . countersigned by two . . . Justices of the Peace . . ."

Secs. II., III., IV., V., and VI. refer to the appointment and duties and salary of Inspectors of Anatomy—these are still in force but refer only to our dissecting room officials and are of no interest to practitioners.

“ Sec. VII. It shall be lawful for any executor or other party having lawful possession of the body of any deceased Person not being an undertaker or other party interested with the Body for the purposes of burial, to permit the Body of such deceased person to undergo anatomical examination unless to the knowledge of such executor or other party such person shall have expressed his desire, either in writing at any time during his life or verbally in the presence of two or more witnesses during the illness whereof he died, that his body after death might not undergo such examination, or unless the surviving husband or wife or any known relatives of the deceased person, shall require the body to be interred without such examination.

“ Sec. VIII. If any person either in writing at any time during his life or verbally in the presence of two or more witnesses during the illness whereof he died shall direct that his body after death be examined anatomically . . . and if before the burial of the body such direction be made known to the party having lawful possession of the dead body, then such last mentioned party shall direct such examination to be made . . . unless the deceased person's surviving husband or wife or nearest known relative, or any one or more of such person's nearest known relatives, being of kin in the same degree shall require the body to be interred without such examination.”

Sec. IX. The body cannot be removed from place of death, under 48 hours from time of death, to place of dissection without notice to Inspector of Anatomy or without certificate as to cause of death.

“ Sec. X. It shall be lawful . . . for any person lawfully qualified to practise medicine . . . or for any student [of medicine] . . . to receive or possess a body for anatomical examination or to examine a body anatomically . . . if permitted by a party in lawful possession of the body . . . who had power to permit the examination under this Act.”

Secs. XI., XII. Refer to Schools of dissection only.

Sec. XIII. Provides for the interment of dissecting room remains which was to take place within six weeks of the reception of the body, but this interval may now be altered by the Home Secretary ; this is the only clause in the Bill of 1871.

Sec. XIV. Provides that no prosecution or penalty shall be incurred *“for examining anatomically any dead human body according to the provisions of this Act.”*

“ Sec. XV. Nothing in this Act contained shall be construed to

extend to or prohibit any post-mortem examination of any human body required or directed to be made by any competent legal authority."

Sec. XVI. Repeals the provision whereby the bodies of murderers who had been hanged were given to dissecting rooms.

"*Sec. XVII. If any action or suit be brought against any person for anything done in pursuance of this Act the same shall be commenced within six calendar months next after the cause of action accrued . . .*"

Sec. XVIII. Provides penalties three months or fifty pounds for infringing the Act.

COMMENTS ON THE ACT.

Whether by the use in the preamble of the words "to practise Anatomy," and in other sections of the words "anatomical examination (sec. VII.) "be examined anatomically" (sec. VIII.) "post-mortem examination" (sec. XV.). Parliament had in its mind the two operations, viz. (a) thorough dissection for learning anatomy, and (b) temporary exploration to ascertain pathological changes, is immaterial, the fact remains that there is no other Act of Parliament from which we can deduce the legal position of a medical practitioner who has performed, or wishes to perform an autopsy, about which question has arisen or may arise, and it is well that the position should be clearly stated.

There are two preliminary points to be noted which are indirectly supported by all Burial Acts and by the Offences against the Person Act, viz. (1) That no property resides in a dead body, except in so far that it belongs to the executors or nearest of kin solely for the purpose of disposing of it according to law, *i.e.*, to have it buried, cremated (*vide* p. 89), or handed over to an anatomy school for dissection and, incidentally, to allow a post-mortem examination to be made upon it; (2) That no assault can be committed upon a dead body. It follows from these two points that in the mere act of performing an autopsy a medical man cannot be committing an offence known to the law, provided that as a matter of provable fact such has not been expressly forbidden by the subject during life, or his executors or nearest of kin after death. If there were any doubt on this point sec. X. above would remove it effectually.

Now let us look at the matter from a more practical point of view, as it may occur in a medical man's daily work.

We may at once eliminate all cases of "violent and unnatural deaths or sudden deaths of which the cause is unknown," for by

sec. 3 of the Coroners Act, 1887 all such must be notified at once to the coroner, and the bodies immediately, by the mere fact of such notification, become the property of the coroner for purposes of an inquest, and cannot be touched without his (tacit or) expressed consent (*vide* p. 100, Coroners Act).

All other deaths that occur may be put in one of two broad groups.

A. Deaths obviously due to disease and in which a certificate can honestly be given whether with or without an autopsy.

B. Deaths with an element of doubt in them (clinical or legal).

Group A.—An autopsy will only yield professional information, therefore the death must be treated, so to speak, in a professional way, that is with a good deal of regard for the feelings of the relatives, and consideration for the view that they may take of a doctor who desires to slake his professional thirst for knowledge in this manner. Permission to perform an autopsy must be asked for as gently and tactfully as possible from the most responsible relative, if met with a refusal the medical man had better not press the point at all strongly, and certainly he had better not do one without permission, for this is almost certain to rouse angry feelings if nothing worse.

A case of this sort occurred within the author's recollection; feeling ran so high that the doctor was threatened with legal proceedings, a step which only failed because there were no grounds upon which they could be based, or rather the lawyer consulted stated that, in his opinion, no jury would convict under the circumstances "of having carried on anatomy in an unlicensed place, and without a licence to practise anatomy."

Group B.—Deaths with an element of doubt in them:—

(I) CLINICALLY.—This section is very much the same as the whole Group A. above, but there is this to be said about them, that a conscientious medical man would always wish that certificates of death should be as accurate as possible, and if he really feels a conscientious difficulty in diagnosis he is the more inclined to urge the value of an autopsy in proportion to the importance he attaches to sworn certificates. The matter must, however, be left rather to the tact of the individual and to his common sense, there are no strong principles to guide him in the present position of the law, and, indeed, in the present condition of public opinion upon professional matters, and the bearing of accurate statistics upon public health. A rapid case of death from acute peritonitis might here be taken as an illustration, or one from meningitis.

(2) LEGALLY.—We are now on somewhat delicate ground, for upon the one hand medical men are not, and are not intended to be, criminal detectives, and yet, on the other hand, it is mainly due to a judicious tinge of detective acumen in doctors' minds that some atrocious crimes have been brought to light (our criminal records supply many instances); moreover, a medical man is, from the very nature of his work amongst pathological symptoms, in a peculiarly favourable position to judge between those which are natural and those which are un-natural and it is no use disguising the fact that a want of due suspicion has certainly allowed many unnatural deaths to be certified as natural.

The "sudden death" of the Coroners Act need not trouble this discussion much, for however mysterious it may be to the lay and legal mind it offers much less difficulty to us, and even the law says "sudden death the cause of which is unknown."

Unnatural death is a much more difficult point to deal with, including as it *may* (on a coroner's mere *ipse dixit*) surgical operation, and the administration of an anæsthetic, and as it certainly *must*, any possibly contributory violence, any suspicion of poisoning and even childbirth (within a short time of death). Under the Act of 1874 described on pp. 76 *et seq.*, we have considered the question of giving a death certificate, here we are only looking at the matter from the point of view of insisting upon an autopsy.

In view of the pecuniary results which accrue from, and the disputes which arise after, a death which has occurred *after* an accident we feel it only right that a medical man should urge, almost to the point of refusal of a certificate and reference to a coroner, the necessity of an autopsy in such cases, no matter how remote may seem the connection between an alleged accident and the death, and this is especially true if the dead person is insured with an Accident Insurance Co.; only those who have had experience can know upon what flimsy pretexts accident insurance claims are either based or disputed—"death accelerated by an accident" being the clause upon which the contentions are based on either side. Of course if there is a reasonable probability that the accident had something to do with the death, or even a suspicion in the doctor's mind that it had, he is bound to report the matter to the coroner, and I can conceive of a no more gross dereliction of duty on the part of a coroner than that of holding an inquest on such a case without an autopsy, and yet such an incident is by no means infrequent.

When this class of death has been eliminated there still remains a group of cases of which we may mention as an illustration

fatal vomiting or diarrhoea, and no doubt any medical man who reads these lines could supply others from his own experience, cases that is in which the ultimate *cause* of the disease is obscure but in which the medical man may feel almost positive that an autopsy would clear matters up; what should he do? My own view is that it is his duty to try all fair means of persuasion to get permission for an autopsy and do it, the reasons given or excuses made for a refusal, and the manner in which these reasons or excuses are advanced, will almost always give a clue to the doctor as to what course he should pursue, and then let him pursue it without fear or favour.

Suppose now that the autopsy is performed, if disease pure and simple is found the case is at an end and a certificate can be conscientiously given. If on the other hand, a condition of affairs is found (poison, violence, criminal abortion, &c.) which necessitates a report, trouble must come, but the medical man's conscience will at least be clear, for it is simply unthinkable (not to mention compounding a felony) that a doctor could suppress the results of his investigations.

With the difficulties or trouble of guilty parties we need not concern ourselves but a word must be said upon the attitude which a coroner may adopt towards an autopsy done under such circumstances. If he is reasonable, he will appreciate the position of a medical man who was in doubt or was suspicious, and will then assist justice with all his power and accept the action of the doctor as extremely opportune; if on the other hand he be filled with pride of office, and ignorance too, as sometimes happens, he may object to the action of the medical man, and though he is powerless to do anything to the doctor's hurt legally, he has great power to bungle the inquest.

A case of this sort occurred not long ago and led to much angry dispute and controversy, but the coroner had finally to admit he was wrong.

It is just worth noting that for an autopsy performed without his order or sanction the coroner has no right to pay, nor the medical man to claim, a fee.

On p. 77 will be found some discussion on the class of case in which a doctor has been frequently in attendance but does not happen to have been so during the last fatal attack.

We may sum the position up in a sort of rough table, thus :—

DEATHS DOUBTFULLY NATURAL.

A. If doctor has strong and, as he believes, well-founded suspicion, report to coroner without hesitation.

- B. If death merely doubtfully natural and suspicion slight—
1. Get permission for autopsy and do it—
 - (a) May then be able to certify.
 - (b) May have to report to coroner.
 2. May be refused.
 - (a) May use persuasion and note grounds of refusal, etc.
 - (b) May refuse absolutely to certify.
 - (c) May still certify, but it is a weak move.
 3. May report without asking for autopsy.
 4. May do autopsy without asking, and abide by results.

As these lines were being written I ventured to bring the matter before the Medico Legal Society in the form of a paper. *Vide Trans. Med. Leg. Soc.*, Vol. IX. Subsequent to the meeting I received the following letter :—

3, ELM COURT,
TEMPLE, E.C.
26th April, 1912.

DEAR DR. SMITH,

I have reconsidered the relative position of the Anatomy Act and the Coroners Act, and have also discussed it with the editor of Chitty's Statutes with reference to the new edition of that work. The position appears to be quite clear.

1. Post-mortems under the two Acts are on an entirely different footing.

2. If a medical man without knowledge of a proposed inquest holds a post-mortem, it is lawful if the Anatomy Act is complied with, even if the result is that the post-mortem subsequently ordered by the coroner is nullified or rendered less useful. A lawful act cannot become unlawful *ex post facto*.

3. After he has notice of an intended inquest, he can only hold a post-mortem by direction of the coroner under the Coroners Act (and see 5 later).

4. If a medical man holds a post-mortem complying with the Anatomy Act, but with the *intention* thereby to prevent or impede the holding of an inquest, he is guilty of a misdemeanour at common law. This is independent of both Acts.

This case is the only possible point of conflict, and, so as far as I am aware, it has never arisen. The interference of Palmer on the post-mortem of Cook was during a post-mortem ordered by the coroner, and Crippen's disposal of his wife's body was nothing like a post-mortem.

5. Of course a coroner can permit a post-mortem under the Anatomy Act, but the effect is simply that in such a case he could not allow a fee out of public funds.

I think the above is entirely in accordance with the views you expressed at the Medico Legal meeting.

If there is any other point you would like me to consider I shall be happy to do so.

Yours sincerely,
ROLAND BURROWS.

SCOTLAND.

As regards the position of affairs in Scotland I possess only one Act.

“ 17 & 18 Vic. c. 80. *An Act to provide for the better registration of Births, Deaths and Marriages in Scotland.* Aug. 7, 1854.”

The medical certificate of death is practically identical with the English one, but the law regarding doubtful and suspicious deaths is so different in its procedure in Scotland from that which holds in England that I have appealed to Professor Littlejohn to give me a short account of them. He writes as follows :—

In Scotland the Registration Acts are : 17 & 18 Vic. c. 80, 1854 (Original Act) ; 18 Vic. c. 29 ; 23 & 24 Vic. c. 85, 1860 (Amending Acts).

The original Act provides :—

THE REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES (SCOTLAND)
ACT, 1854.

(17 & 18 Vic. c. 80.)

Sec. XLI. The Medical Person who shall have been in attendance during the last illness, and until the Death of any Person, shall, within Fourteen Days after the Death of such Person, and under a Penalty not exceeding Forty Shillings in case of Failure, transmit to the Registrar a Certificate of such Death, in the Form of Schedule (G) hereunto annexed, the Particulars of which shall forthwith be entered by the Registrar in the Register, and the Registrar shall from Time to Time furnish gratis to every Medical Person within his Parish or District known to him, or who shall require the same, the necessary copies of such Certificate.

The first of the above amending Acts refers solely to Registrar's duties, while the second amending Act of 1860 makes certain alterations in regard to the duties of a medical man :—

THE REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES (SCOTLAND)
ACT, 1860.

(23 & 24 Vic. c. 85.)

Sec. XIV. The Medical Certificate referred to in the Forty-first Section of the first-recited Act shall be transmitted by the Medical Person to the Registrar within Seven Days after the Death of the Person to whom it relates, instead of within Fourteen Days thereafter : Provided that in case such Certificate shall not be so transmitted, the Registrar shall transmit to such Medical Person a Form of the Certificate prescribed by the said Act, and by a written or printed Requisition, under his hand, shall require such Medical Person forthwith to return to the Registrar such Certificate duly filled up in terms of the said Act ; and such Certificate so filled up shall be so returned within Three Days after the Receipt thereof by such Medical Person.

From the foregoing it is seen that the procedure in Scotland differs slightly from that in England, and that the medical certificate in Scotland has to be transmitted direct to the Registrar. This latter provision, although not strictly conformed to, is yet held to be a desirable provision, so far as the medical profession is concerned.

In Scotland the preliminary investigation into all deaths of a

doubtful or suspicious character is carried out by an official called the Procurator Fiscal, who is a lawyer appointed by the Crown. The procedure is as follows :—

On a death of this nature coming to the knowledge of the Procurator Fiscal, either through information from the police or other persons, the Procurator Fiscal inquires into the circumstances, interviews witnesses, and is assisted in his investigations by the police. He may ask a medical man to examine the body and furnish him with a certificate "upon Soul and Conscience" as to the cause of death, or, in the event of the circumstances indicating the advisability of a post-mortem examination, he obtains a warrant from the Sheriff authorising one, or it may be two, medical men to perform such post-mortem examination, the results of which are embodied in a report signed by the medical men "upon Soul and Conscience."

The Procurator Fiscal, when his inquiries are completed, transmits a full report of the case to the Crown, and the future proceedings, if any, are decided upon by Crown Counsel.

The preliminary inquiry in all criminal cases in Scotland is conducted in private, in contra-distinction to the public character of the Coroner's inquest, but in cases in which the Crown considers it expedient in the public interest to hold a public inquiry, such inquiry may be held (Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act, 1906, sec. 3 & 6, 6 *Ed. 7, c. 35*).

In regard to fatal accidents, a public inquiry is always held, the same being conducted by the Procurator Fiscal before a Sheriff and jury.

IV.—CREMATIONS.

"2 *Edw. 7, c. 8. An Act for the regulation of the burning of human remains, and to enable Burial Authorities to establish Crematoria. July 22, 1902.*"

I may introduce the Act by stating that according to a letter from the Home Office to the author, dated October 26, 1911, crematoria have been established under it at :—

Birmingham.	Ilford (City of London Authority).
Bradford.	Leicester.
Darlington.	Liverpool.
Glasgow.	Manchester.
Golders Green.	Sheffield.
Headingley (Leeds).	Woking.
Hull.	

The Act does not apply to Ireland, where apparently there are no crematoria.

Secs. 1 to 6 give power to burial authorities to establish crematoria.

"Sec. 7. *The Secretary of State shall make regulations as to the maintenance and inspection of crematoria, and prescribing in what cases and under what conditions the burning of any human remains may take place. . . .*

"Sec. 8.—(1) *Every person who shall contravene any such regulation as aforesaid, or shall knowingly carry out or procure or*

take part in the burning of any human remains except in accordance with such regulations and the provisions of this Act, shall (in addition to any liability or penalty which he may otherwise incur) be liable on summary conviction to a penalty not exceeding fifty pounds. Provided that any person aggrieved by any conviction may appeal therefrom to quarter sessions.

"(2) Every person who shall wilfully make any false [declaration or] representation, or sign or utter any false certificate, with a view to procuring the burning of any human remains shall (in addition to any penalty which he may otherwise incur) [probably under the Statutory Declarations Act, 1855—Ed.] be liable to imprisonment with or without hard labour for a term not exceeding two years.

"(3) Every person who with intent to conceal the commission or impede the prosecution of any offence, procures or attempts to procure the cremation of any body, or with such intent makes any declaration or gives any certificate under this Act shall be liable to [on] conviction on indictment to penal servitude for a term not exceeding five years."

Sec. 9. The burial authority may demand fees as authorised.

"Sec. 10. The Act shall not interfere with the jurisdiction of any coroner under the Coroners Act, 1887 . . . and nothing in this Act shall authorise the burial authority or any person to create or permit a nuisance."

REGULATIONS (DATED 1903) UNDER SEC. 7 OF THE CREMATION ACT.

3. No cremation shall take place except in a [authorised] crematorium of the opening of which notice has been given to the Secretary of State.

4. It shall not be lawful to cremate the remains of any person known to have left written directions to the contrary.

5. It shall not be lawful to cremate human remains which have not been identified.

6. No cremation shall be allowed until the death of the deceased has been duly registered, except where an inquest has been held and a certificate given by a coroner in Form E (see Reg. 8).

7. No cremation shall be allowed to take place unless application therefor be made, and the particulars stated in the application be confirmed by statutory declaration, in accordance with Form A in the schedule hereto.

The application must be signed and the statutory declaration made by an executor or by the nearest surviving relative of the deceased, or, if made by any other person, must show a satisfactory reason why the application is not made by an executor or by the nearest surviving relative.

8. No cremation shall be allowed to take place unless

- (a) A certificate in Form B be given by a registered medical practitioner who has attended the deceased during his last illness and who can certify definitely as to the cause of death, and a confirmatory medical certificate in Form C

¹ These words are repealed by the Perjury Act of 1911.

be given by another medical practitioner, who must be qualified as prescribed in Regulation 9 ; or

- (b) A post-mortem examination has been made by a medical practitioner expert in pathology, appointed by the Cremation Authority (or in case of emergency appointed by the Medical Referee), and a certificate given by him in Form D ; or
- (c) An inquest has been held and a certificate has been given by the coroner in Form E.

No cremation shall take place except on the written authority of the Medical Referee given in Form F.

9. The confirmatory medical certificate in Form C, if not given by the Medical Referee, must be given by a registered medical practitioner of not less than five years' standing, who must either

- (a) be appointed for the purpose by the Cremation Authority ; or
- (b) hold one of the following appointments :—Medical Officer of Health, Police Surgeon, Certifying Surgeon under the Factory and Workshop Act, 1901, Medical Referee under the Workmen's Compensation Act, 1897 ; or
- (c) hold an appointment as physician or surgeon in a public general hospital containing not less than 50 beds.

10. Every Cremation Authority shall appoint a Medical Referee, who must be a registered medical practitioner of not less than five years' standing, and must possess such experience and qualifications as will fit him for the discharge of the duties required of him by these regulations. If otherwise qualified he may be a person holding the office of Coroner or of Medical Officer of Health.

Every Cremation Authority shall also appoint a Deputy Medical Referee possessing the like qualifications to act in the absence of the Medical Referee and in any case in which the Medical Referee has been the medical attendant of the deceased.

The Cremation Authority on making any such appointment shall notify the name, address, and qualifications of the Medical Referee or Deputy Medical Referee to the Secretary of State.

11. It shall be lawful for the Medical Referee if he has personally investigated the cause of death to give a certificate in Form C, and if he has made the post-mortem examination to give a certificate in Form D. The Medical Referee, if a coroner, may himself give the coroner's certificate in Form E.

12. The duties of the Medical Referee shall be as follows :—

- (1) He shall not allow any cremation to take place if it appears that the deceased left a written direction to the contrary.
- (2) He shall not (except where an inquest has been held and a certificate given by a Coroner in Form E) allow any cremation to take place unless he is satisfied that the death of the deceased has been duly registered, by the production of a "Certificate of Registry of Death" on one of the forms provided by the Registrar-General for production in case of burial.
- (3) He shall, before allowing the cremation, examine the application and certificates and ascertain that they are such as are required by these regulations and that the inquiry made by the persons giving the certificates has been adequate. He may make any inquiry with regard to the application and certificates that he may think necessary.
- (4) He shall not allow the cremation unless he is satisfied that

the application is made by an executor or by the nearest surviving relative of the deceased, or, if made by any other person, that the fact that the executor or nearest relative has not made the application is sufficiently explained, and that the person making the application is a proper person to do so.

- (5) He shall not allow the cremation unless he is satisfied that the fact and cause of death have been definitely ascertained ; and in particular, if the cause of death assigned in the medical certificates be such as, regard being had to all the circumstances, might be due to poison, to violence, to any illegal operation, or to privation or neglect, he shall require a post-mortem examination to be held, and if that fails to reveal the cause of death shall decline to allow the cremation unless an inquest be held and a certificate given by the coroner in Form E.
- (6) If it appears that death was due to poison, to violence, to any illegal operation or to privation or neglect, or if there is any suspicious circumstance whatsoever, whether revealed in the certificates or otherwise coming to his knowledge, he shall decline to allow the cremation unless an inquest be held and a certificate given by the coroner in Form E.
- (7) If a coroner has given notice that he intends to hold an inquest on the body, he shall not allow the cremation to take place until the inquest has been held.
- (8) He may in any case decline to allow the cremation without stating any reason.

In the case of the remains of a person who has died in any place out of England the Medical Referee may accept a Declaration containing the particulars prescribed in Form A if it be made before any person having authority in that place to administer an oath or to take a declaration ; and he may accept certificates in Forms B, C, and D, if they be signed by any medical practitioners who are shown to his satisfaction to possess qualifications substantially equivalent to those prescribed in the case of each certificate by these regulations.

13. The foregoing regulations, 5 to 12, shall not apply to the cremation of the remains of a deceased person who has already been buried for not less than one year. Such remains may be cremated, subject to such conditions as the Secretary of State may impose in the exhumation licence granted by him or otherwise ; and any such cremation in which those conditions are not observed shall be deemed a contravention of these regulations.

14. In the case of any person dying of plague, cholera, or yellow fever on board ship or in a hospital or temporary place of reception of the sick provided by a Port or other local authority under the Public Health Acts or by a Hospital Committee under the Isolation Hospital Acts, the Medical Referee, if satisfied as to the cause of death, may dispense with any of the requirements of regulations 4, 5, 6, 7, 8, 9, and 12. These regulations may also be temporarily suspended or modified in any district during an epidemic or for other sufficient reason by an order of the Secretary of State on the application of a Local Authority.

15. Notwithstanding the foregoing regulations 6 to 12, the Medical Referee may permit the cremation of the remains of a still-born child if it be certified to be still-born by a registered medical practitioner after examination of the body, and if the referee after

such inquiries as he may think necessary is satisfied that it was still-born, and that there is no reason for further examination.

Disposition of Ashes.

16. After the cremation of the remains of a deceased person the ashes shall be given into the charge of the person who applied for the cremation if he so desires. If not, they shall be retained by the cremation authority, and, in the absence of any special arrangement for their burial or preservation, they shall be decently interred in a burial ground or in land adjoining the crematorium reserved for the burial of ashes. In the case of ashes left temporarily in the charge of the cremation authority and not removed within a reasonable time, a fortnight's notice shall be given to the person who applied for the cremation before the remains are interred.

The remaining clauses 17 to 20 refer to the Registration of Cremations and have no medical interest.

DRAFT FORMS.

FORM A.

Application for Cremation, with Statutory Declaration.

1. (name of applicant)
(address)
(occupation)
apply to the
to undertake the cremation of the remains of
(name of deceased)
(address)
(occupation)
(age) (sex)
(whether married, widow, widower, or unmarried)

The true answers to the questions set out below are as follows :—

1. Are you an executor or the nearest surviving relative of the deceased ?
2. If not, state
 - (a) Your relationship to the (a)
deceased.
 - (b) The reason why the appli- (b)
cation is made by you and
not by an executor or any
nearer relative.

3. Did the deceased leave any written directions as to the mode of disposal of his remains? If so, what?

4. Have the near relatives* of the deceased been informed of the proposed cremation ?

* The term "near relative" as here used includes widow or widower, parents, children above the age of 16, and any other relative usually residing with the deceased.

FORM A. — *continued.*

5. Has any near relative of the deceased expressed any objection to the proposed cremation? If so, on what ground?

6. What was the date and hour of the death of deceased?

7. What was the place where deceased died? (Give address and say whether own residence, lodgings, hotel, hospital, nursing home, &c.)

8. Do you know, or have you any reason to suspect, that the death of the deceased was due, directly or indirectly, to

(a) violence;

(b) poison;

(c) privation or neglect?

9. Do you know any reason whatever for supposing that an examination of the remains of the deceased may be desirable?

10. Give name and address of the ordinary medical attendant of the deceased.

11. Give names and addresses of the medical practitioners who attended deceased during his last illness.

I do hereby solemnly and sincerely declare that all the particulars stated above are true, and that to the best of my knowledge and belief no material particular has been omitted; and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1835.

(Signature)

*Declared at
the day of
before me,

(Signature)

* This declaration must be made before a Justice of the Peace or a Commissioner of Oaths. If made before a Commissioner it requires an impressed Inland Revenue Stamp of 2s. 6d.

FORM B.

Certificate of Medical Attendant.

I am informed that application is about to be made for the cremation of the remains of

(name of deceased)

(address)

(occupation)

Having attended the deceased before death, and seen and identified the body after death, I give the following answers to the questions set out below:—

1. On what date, and at what hour did he or she die?

FORM B.—*continued.*

2. What was the place where the deceased died ? (Give address and say whether own residence, lodgings, hotel, hospital, nursing home, &c.)

3. Are you a relative of the deceased ? If so, state the relationship.

4. Have you, so far as you are aware, any pecuniary interest in the death of the deceased ?

5. Were you the ordinary medical attendant of the deceased ? If so, for how long ?

6. Did you attend the deceased during his or her last illness ? If so, for how long ?

7. When did you last see the deceased alive ? (Say how many days or hours before death.)

8. How soon after death did you see the body, and what examination of it did you make ?

9. What was the cause of death ? { Primary
Secondary

(Specify the disease, injury, &c., and if possible distinguish the primary from the secondary cause as in the Death Certificate.)

What was its duration in years, months, or days ?

10. What was the mode of death ? (Say whether syncope, coma, exhaustion, convulsions, &c.)

What was its duration in days, hours, or minutes ?

11. State how far the answers to the last two questions are the result of your own observations, or are based on statements made by others. If on statements made by others, say by whom.

12. Did the deceased undergo any operation during the final illness or within a year before death ? If so, what was its nature, and who performed it ?

13. By whom was the deceased nursed during his or her last illness ? (Give names, and say whether professional nurse, relative, &c. If the illness was a long one, this question should be answered with reference to the period of four weeks before the death.)

14. Who were the persons (if any) present at the moment of death ?

FORM B.—*continued.*

15. In view of the knowledge of the deceased's habits and constitution, do you feel any doubt whatever as to the character of the disease or the cause of death ?

16. Do you know, or have you any reason to suspect, that the death of the deceased was due, directly or indirectly, to

(a) violence ;

(b) poison ;

(c) privation or neglect ?

17. Have you any reason whatever to suppose a further examination of the body to be desirable ?

18. Have you given the certificate required for registration of death ?

I hereby certify that the answers given above are true and accurate to the best of my knowledge and belief, and that there is no circumstance known to me which can give rise to any suspicion that the death was due wholly or in part to any other cause than { disease
accident
or which makes it desirable that the body should not be cremated.

(Signature)

(Address)

(Registered qualifications)

(Date)

NOTE.—This certificate must be handed or sent in a closed envelope by the medical practitioner who signs it to the medical practitioner who is to give the confirmatory certificate below.

FORM C.

Confirmatory Medical Certificate.

I have examined the foregoing medical certificate, and have made personal inquiry as stated in my answers to the questions below :—

1. Have you seen the body of the deceased ?

2. Have you carefully examined the body externally ?

3. Have you made a post-mortem examination ?

4. Have you seen and questioned the medical practitioner who gave the above certificate ?

5. Have you seen and questioned any other medical practitioner who attended the deceased ?

6. Have you seen and questioned any person who nursed the deceased during his last illness, or who was present at the death ?

7. Have you seen and questioned any of the relatives of the deceased ?

FORM C.—*continued.*

8. Have you seen and questioned any other person ?

(In the answers to questions 5, 6, 7, and 8, give names and addresses of persons seen and say whether you saw them alone.)

I am satisfied that the cause of death was and I certify that I know of no circumstance which can give rise to any suspicion that death was due wholly or in part to any other cause than { disease
accident.

or which makes it desirable that the body should not be cremated.

(Signature)

(Address)

(Date)

(Registered qualifications)

(Office)

NOTE.—The Certificates in Forms B and C must be handed or sent in a closed envelope to the Medical Referee by one or other of the medical practitioners by whom they are given.

FORM D.

Certificate after Post-Mortem Examination.

I hereby certify that, acting* on the instructions of Medical Referee to the

I made a post-mortem examination of the remains of

(Name)

(Address)

(Occupation)

The result of the examination is as follows :—

I am satisfied that the cause of death was and that there is no reason for making any toxicological analysis† or for the holding of an inquest.

(Signature)

(Address)

(Date)

(Registered qualifications)

FORM E.

Coroner's Certificate.

I certify that I held an inquest on the body of and that the verdict of the Jury was as follows :—

Medical evidence was given by

I am satisfied from the evidence that the cause of death was and that no circumstance exists which could render necessary any further examination of the remains or any analysis of any part of the body.

(Date)

Coroner.

M.L.

FORM F.

Authority to Cremate.

Whereas application has been made for the cremation of the remains of

(Name[†])

(Address)

(Occupation)

And whereas I have satisfied myself that all the requirements of the Cremation Act, 1902, and of the Regulations made in pursuance of that Act, have been complied with, that the cause of death has been definitely ascertained, and that there exists no reason for any further inquiry or examination :

I hereby authorise the Superintendent of the Crematorium at to cremate the said remains.

(Signature)

Medical Referee to the

(Date)

NOTE.—This authority should be signed in duplicate—one copy to be retained with certificates and the other sent by the Medical Referee to the Superintendent of Crematorium.

* Where the Medical Referee himself gives this certificate, strike out the words in italics and insert "as."

† The words in italics should be omitted where a toxicological analysis has been made and its result is stated in this certificate or in a certificate attached to it.

‡ In the case of a still-born child in place of the name, address, and occupation, insert a description sufficient to identify the body, and in place of the words "that the cause of death has been definitely ascertained" insert the words "that the child was still-born."

COMMENTS ON THE ABOVE.

Cremation, though still somewhat of a novelty, is slowly increasing in popularity, and as a medical man is liable any day to be met with a request for assistance in procuring cremation for a late patient it is well that he should be acquainted with the necessary formalities to be gone through, I have therefore felt it necessary to print almost all of the Act and practically the whole of the Rules and Orders of the Secretary of State referring thereto.

Obviously his first step is to tell the friends, or himself, to communicate with the authorities of the most convenient Crematorium (*vide* above, p. 89) for a list, these will in turn send him copies of the necessary certificates A. B. C.

Note that C. is necessary under sec. 8 (a) with certain exceptions under sec. 8 (b) and (c) and eventually the permission of the Medical Referee in Form F.

When all these have been duly filled up (note sec. 8 of the Act itself with reference to penalties for contravening any regulation

or for false declarations) and permission obtained from the Medical Referee the cremation can proceed.

Criticism is silent in face of the excellent, if somewhat troublesome, regulations for the prevention and detection of crime ; one can only express a hope that in course of time they may be adopted with modifications for all burials.

Rule 14 with reference to an epidemic of Infectious disease might very well be made compulsory for all deaths from infectious disease.

V.—CORONERS.

ACTS RELATING TO CORONERS.

Into the history of the office of coroner I do not propose in the least to enter but I must refer the reader to Dr. R. Henslowe Wellington's " King's Coroner " wherein that history is set forth in great detail. There can, I think, be no question but that the office ought to be held by a medical man, but as this opinion is not universally held it need not be discussed here, suffice it to say that many coroners and deputy coroners are medical practitioners, and I would strongly urge all such to get the book in question not only for its intrinsic interest but for the information it contains on the whole duty of a coroner, with parts only of which I am now concerned, and I do not propose to go further back than " 50 & 51 Vic. c. 71. *An Act to consolidate the Law relating to Coroners.*,"¹ which with

" 55 & 56 Vic. c. 56. *An Act to amend the Law in relation to the appointment of Coroners and Deputy Coroners in Counties and Boroughs. June 28, 1892,*" constitutes the present law on the subject so far as England and Wales are concerned.

We may first dispose of the later Act because it has only one section of interest to medical men, viz.

Sec. 1. (1)—*Every coroner . . . shall appoint . . . a fit person approved by the chairman or mayor as the case may be of the council who appointed the coroner . . . to be his deputy and may revoke such appointment . . .*

" (5) *For the purpose of an inquest or act which a deputy of a coroner is authorised to hold or do he shall be deemed to be that coroner. . . .*"

This gives a coroner very wide powers in appointing a deputy, powers to be remembered by any medical practitioner who desires the post of deputy. The sub-sec. (5) as far as we have

¹ This Act of 1887 gives a list of no less than 33 Acts of Parliament relating to the subject, going as far back as 3 Edw. 1, c. 9.

quoted it gives rise, at very rare intervals, to interesting legal questions, of no interest to the profession except this, that in signing the documents connected with an inquest let a deputy always sign,

A. B. (his chief's name) Coroner.

per pro C. D. (his own name) Deputy.

Of the 1887 Act the following sections are of most medical interest.

"*Sec. 3.—(1) Where a coroner is informed that the dead body of a person is lying within his jurisdiction, and there is reasonable cause to suspect that such person has died either a violent or an unnatural death, or has died a sudden death of which the cause is unknown, or that such person has died in prison, or in such place or under such circumstances as to require an inquest in pursuance of any Act, the coroner . . .*" shall hold such inquest.

It is under this section that occasion arises for all inquests, and to these occasions we must draw the reader's careful attention.

Different coroners take a very different view of the intention of the words "reasonable cause to suspect a violent or unnatural death," and there seems to be no power at present to compel them all to take the same view; perhaps even it may not be desirable that they should all do so, or indeed that the same coroner should himself always take the same view of what may, on the surface, appear to be the same circumstances.

The circumstances to which we allude are of course "Deaths after operation" and "Deaths under or after an anæsthetic," neither of these can be called natural deaths, and yet a great deal can be said against holding an inquest in either case, the matter is too large to be discussed fully here, and also too important for me to pronounce an opinion upon that is worth more than my mere personal view, but this I must say, let there be no concealment of either fact in the Death Certificate, and let the medical practitioner not lose his temper if he finds that the coroner of his district chooses to hold an inquest on all such cases, friction of this sort is worse than useless.

"Sudden death of which the cause is unknown" has already been sufficiently discussed under Death Certification (*vide* p. 77). The unknown here of course, refers to the fact that the coroner does not know it because there is no certificate of the cause of death in *the ordinary form prescribed by Law* to enlighten him, but only an informal letter from either the local registrar or a medical practitioner, and under this circumstance coroners exercise a wide power of discretion.

"In such place or under such circumstances, &c.," means at least the following :—

1. Under the Lunacy Act, secs. 84 and 319 (*vide* p. 182).
2. Under the Factory and Workshops Act, sec. 22 (3), it is a violent death.
3. Under the Children Act, sec. VII. (*vide* p. 155).
4. Under the Habitual Drunkards Acts, sec. 27 (*vide* pp. 197, 198).
5. In Criminal Law after judicial hanging and certain deaths in prisons.

Sec. 6. The High Court of Justice through any judge thereof, may, under application made by or under the authority of the Attorney General, order a coroner to hold an inquest if any coroner refuses or neglects to hold one or holds one that is unsatisfactory by "*reason of fraud, rejection of evidence, irregularity of proceedings, insufficiency of inquiry, or otherwise.*"

Secs. 8, 9, and 10 give the liabilities of a coroner with punishments for neglecting any of his duties. Incidentally we may note that the Lord Chancellor by 8 (1) has the power, if he thinks fit, of removing a coroner; and by 8 (2) a court before which he is convicted of "*extortion, corruption, wilful neglect of his duty or misbehaviour in the discharge of his duty,*" may do the same.

To the sections relating to medical witnesses and post-mortem examinations we would direct the reader's special and careful attention; they run as follows :—

"Sec. 21.—(1) *Where it appears to the coroner that the deceased was attended at his death or during his last illness by any legally qualified medical practitioner, the coroner may summon such practitioner as a witness; but if it appears to the coroner that the deceased person was not attended at his death, or during his last illness by any legally qualified medical practitioner, the coroner may summon any legally qualified medical practitioner who is at the time in actual practice in or near the place where the death happened, and any such medical witness as is summoned in pursuance of this section, may be asked to give evidence as to how, in his opinion, the deceased came to his death.*"

This section has given rise to very fierce controversy between medical men in attendance during a last illness and certain coroners. We must refer the reader to "Taylor," Vol. I., for full details, here we can only say that the law is on the coroners' side at present, however desirable it may be in the interests of justice that it should be amended.

"(2) *The coroner may, either in his summons for the attendance of such medical witness or at any time between the issuing of that*

summons and the end of the inquest, direct such medical witness to make a post-mortem examination of the body of the deceased, with or without an analysis of the contents of the stomach or intestines.

This now works out fairly well in practice, since under the next section a coroner can practically always get an analysis performed by an expert if the jury desire it.

“ Provided that where a person states upon oath before the coroner that in his belief the death of the deceased was caused partly or entirely by the improper or negligent treatment of a medical practitioner or other person, such medical practitioner or other person shall not be allowed to perform or assist at the post-mortem examination of the deceased.”

“ (3) If a majority of the jury sitting at an inquest are of opinion that the cause of death has not been satisfactorily explained by the evidence of the medical practitioner or other witnesses brought before them, they may require the coroner in writing to summon as a witness some other legally qualified medical practitioner named by them, and further to direct a post-mortem examination of the deceased, with or without an analysis of the contents of the stomach or intestines, to be made by such last-mentioned practitioner, and that whether such examination has been previously made or not, and the coroner shall comply with such requisition, and in default shall be guilty of a misdemeanor.”

This paragraph is also fully discussed in “Taylor.” With reference to expert pathologists, there can be no doubt about the need for revision of the law relating to the performance of post-mortems for coroners.

“ Sec. 22. A legally qualified medical practitioner who has attended at a coroner’s inquest in obedience to a summons of the coroner under this Act shall be entitled to receive such remuneration as follows ; that is to say,

“ (a) For attending to give evidence at any inquest, whereat no post-mortem examination has been made by such practitioner, one guinea ; and

“ (b) For making a post-mortem examination of the body of the deceased, with or without an analysis of the contents of the stomach or intestines, and for attending to give evidence thereon, two guineas ;

Provided that—

“ (1) Any fee or remuneration shall not be paid to a medical practitioner for the performance of a post-mortem examination instituted without the previous direction of the coroner.

“ (2) Where an inquest is held on the body of a person who has died in a county or other lunatic asylum, or in a public

hospital, infirmary, or other medical institution, or in a building or place belonging thereto, or used for the reception of the patients thereof, whether the same be supported by endowments or by voluntary subscriptions, the medical officer, whose duty it may have been to attend the deceased person as a medical officer of such institution as aforesaid, shall not be entitled to such fee or remuneration."

This section with its sub-sections are a gross injustice to the profession, and form a good illustration of the "sweating of the profession," which governments of any complexion seem to delight in. Why, one may ask, is an adjourned inquest not to be paid for if it requires a second attendance, and why should a medical man who gives his services to a charitable hospital also give them free of charge to the government?

"Sec. 23. Where a medical practitioner fails to obey a summons of a coroner issued in pursuance of this Act, he shall, unless he shows a good and sufficient cause for not having obeyed the same, be liable on summary conviction on the prosecution of the coroner or of any two of the jury to a fine not exceeding five pounds."

This requires amendment, for it may place a medical practitioner in a very serious predicament through no fault of his own, for very different views may be taken by coroners of what constitutes "good and sufficient cause."

"Sec. 24. Where a place has been provided by a sanitary authority or nuisance authority for the reception of dead bodies during the time required to conduct a post-mortem examination, the coroner may order the removal of a dead body to and from such place for carrying out such examination, and the cost of such removal shall be deemed to be part of the expenses incurred in and about the holding of an inquest."

Requires no comment.

The remainder of the Act is of no general interest but, of course, must be carefully studied by any practitioner who becomes a coroner or deputy coroner.

CHAPTER IV

ACTS RELATING TO DRUGS AND POISONS USED BY THE PROFESSION GENERALLY

OBVIOUSLY the whole subject may be broadly divided into two main divisions, viz., one which deals with ordinary manufactured chemicals and their products, and one which deals with the application of chemistry to the preparation of therapeutical remedies, but it is practically impossible either in theory or practice to rigidly define and separate the two divisions and hence we shall find that the legislation on the whole matter is somewhat complicated by Acts which, while dealing more especially with one or the other division, yet find it impossible to avoid some regulating of the alternative division.

As in other chapters an attempt will be made to give a sort of chronological summary of the whole with more detailed reference to portions of some Acts of greater immediate interest to medical men.

To be accurate then I consider that for the dawn of legislation on the subject we must go back to the original charter of the Apoth. Soc. in which we get the first attempt to provide supervision by a competent body over the drugs and chemicals used for human administration. This has been sufficiently quoted on p. 15.

It would appear that for England [I can find no legislation dealing specially with Scotland] the public interests were sufficiently looked after by the Apoth. Soc. under their charter till the commencement of the nineteenth century, when in 1815 we find the Apoth. Soc. Amendment Act placed on the Statute Book, but previous to this, in 1791, we find in Ireland

" 31 Geo. 3, *Irish. An Act for the more effectually preserving the health of His Majesty's subjects, for erecting an Apothecaries Hall in the City of Dublin, and regulating the profession of an apothecary throughout the kingdom of Ireland.*"

This Act was not only the charter of an Irish Apoth. Soc. but gave it power to examine into the qualifications of persons to practise the art and mystery of an apothecary, and if found competent, to give such person a certificate to open shop or follow the art and mystery of an apothecary.

Between 1815 and 1840, or thereabouts, I cannot find any references to my present subject, but about the latter date "*certain persons desirous of advancing Chemistry and Pharmacy, and of promoting an uniform system of educating those who should practise the same, formed themselves into a society called 'The Pharmaceutical Society of Great Britain,' which said society was incorporated by Royal Charter on Feb. 18, 1843.*" [Extract from the preamble to 15 & 16 Vic. c. 56, *vide* below.]

From the time of its incorporation the Society was probably very active and I strongly suspect, though it does not appear in the preamble of the Bill, that it was through its influence that in 1851 was passed 14 Vic. c. 13. An Act to "*regulate the sale of Arsenic,*" a bill which contains the germs of the language used in the Acts below, referring to the sale of many poisons besides arsenic and has never been specifically repealed, and indeed is still acted upon. We do not quote it because its conditions are better expressed and amplified by the later Acts below, *vide* p. 107.

In the next year, viz., 1852,

"15 & 16 Vic. c. 56. *An Act for regulating the Qualifications of Pharmaceutical Chemists. June 30, 1852,*" was passed; it may be said, without any very great laxity of language, to have placed the Council of the Pharmaceutical Society in a somewhat similar position towards pharmaceutical chemists to that which the Gen. Med. Council occupies towards medical men, at least so far as registration and examination of would-be chemists is concerned in England and Scotland. [The 1875 Act did much the same for Ireland.] I can find in the Act no provisions for internal discipline, though probably these are contained in the bye-laws of the society, to make and alter and amend which the council of the Pharm. Soc. is empowered by Sec. II.

This Act specifically refers to England and Scotland, Ireland is not mentioned.

Sixteen years later, *i.e.*, in 1868, is found, "31 & 32 Vic. c. 121. *An Act to regulate the sale of Poisons and to amend and alter the Pharmacy Act, 1852. July 31, 1868.*" Upon the general features of this Act it may be remarked that it emphasised the necessity of a man being a registered pharmaceutical chemist under the old Act before he kept open shop to sell drugs or compound medicines, and it made examination and registration more exact.

We may here interpolate

"32 & 33 Vic. c. 117. *An Act to amend the Pharmacy Act, 1869, Aug. 11, 1869, and 61 & 62 Vic. c. 25. An Act to amend the Pharmacy Acts, 1852 and 1868. July 25th, 1898,*" and say

of them that the one of 1869, distinctly removes legally qualified practitioners, and medicine supplied by them directly to their patients, from any restrictions under the first fifteen sections of the Pharmacy Act of 1868, but seems to leave it open to doubt whether a medical man is not bound to put a "poison" label on medicines containing a scheduled poison; and the other of 1898 deals mainly with the powers of the Council of the Pharmaceutical Society over its students and members; it does not apply to Ireland.

And now we must turn to one or two clauses of the 1868 Act as specifically of some interest to our profession in a wide aspect.

Thus,

"Sec. 2. The several articles named or described in the schedule (on p. 108) shall be deemed to be poisons within the meaning of this Act, and the Council of the Pharmaceutical Society of Great Britain, may from time to time, by Resolution, declare that any Article in such resolution named ought to be deemed a Poison within the meaning of this Act . . ." if approved by the Privy Council.

The original list of poisons in the 1868 Act was deliberately withdrawn in 1908 [8 Edw. 7, c. 55, sec. 1 (1)], and a new list substituted with power to amend it under the above section, which was so to speak re-enacted.

"Sec. 16. Nothing in this Act shall extend to or interfere with the business of any legally qualified medical practitioner or of any member of the Royal College of Veterinary Surgeons of Great Britain nor with the making or dealing in Patent Medicines." The underlining is the editor's.

On this section one can only exclaim what an opportunity of doing the right thing was here missed, it only needed a few words to be added to have caused at a stroke the cessation of an incalculable amount of harm to his Majesty's subjects. A few words to the effect that every patent medicine should bear a label stating its exact composition, with a penalty for the omission of the label or for a serious deviation from standard of composition were all that was required.

"Sec. 17. It shall be unlawful to sell any poison, either by wholesale or by retail, unless the Box, Bottle, Vessel, Wrapper, or cover in which such Poison is contained be distinctly labelled with the name of the Article and the word Poison, and with the Name and Address of the seller of the Poison; and it shall be unlawful to sell any poison of those which are in the First Part of the Schedule, or may hereafter be added thereto under sec. 2 of this Act, to any person unknown to the seller, unless introduced by some person known to the seller; and on every sale of any such Article the Seller shall

before Delivery make and keep a record of the date of sale, the name and address of Purchaser, the name and quantity of the Article sold and the purpose for which it is stated by the Purchaser to be required. to which record the signature of the Purchaser and of the person, if any, who introduced him shall be affixed . . . the provisions of this section are solely applicable to poisons in the first part of the Schedule . . .”

[These are the words to which we referred above, p. 105 as the reason for not quoting the 1851 Act.]

To those in Part II. the modified restriction applies, viz., that they must be labelled poison and must have the name and address of the seller affixed, and a similar restriction is by the Act of 1908, sec. 5, imposed on the retail sale of

“ Sulphuric acid, nitric acid, hydrochloric acid, soluble salts of oxalic acid, and such other substances as may for the time being be prescribed by Order in Council . . .”

The only other important section of the 1908 Act is the following :—

“ Sec. 2.—(1) So much of the Pharmacy Act, 1868 as makes it an offence for any person to sell or keep open shop for the sale of poisons, unless he is a duly registered pharmaceutical chemist or chemist and druggist and conforms to regulations made under sec. 1 of that Act, shall not apply in the case of poisonous substances to be used exclusively in agriculture or horticulture for the destruction of insects, fungi, or bacteria, or as sheep dips or weed killers, which are poisonous by reason of their containing arsenic, tobacco, or the alkaloids of tobacco, if the person so selling or keeping open shop is duly licensed for the purpose under this section by a local authority, and conforms to any regulations as to the keeping, transporting, and selling of poisons made under this section, but nothing in this section shall exempt any person so licensed from the requirements of any other provision of the Pharmacy Act, 1868, or of the Arsenic Act, 1851, relating to poisons :

“ Provided that His Majesty may by Order in Council amend this provision by adding thereto or removing therefrom any poisonous substance, and, upon any such Order being made, this provision shall have effect as if the added poisonous substances were included therein and the removed poisonous substances were excluded therefrom.

“ (2) Before granting any licence under this section the local authority shall take into consideration whether in the neighbourhood where the applicant for the licence carries on or intends to carry on business the reasonable requirements of the public with respect to the purchase of such poisonous substances as aforesaid are satisfied.

" (3) *His Majesty may, by Order in Council, make regulations as to—*

" (a) *the granting of licences under this section ; and*

" (b) *the duration, renewal, revocation, suspension, extent, and production of such licences ; and*

" (c) *the keeping, inspection, and copying of registers of licences ; and*

" (d) *the fees to be charged for licences and for inspection and copying of registers ; and*

" (e) *the keeping, transporting, and selling of the poisonous substances to which this section applies ;*

and generally for the purposes of carrying this section into effect.

" (4) *The local authority for the purposes of this section shall, as respects the area of any municipal borough in England having a population of more than ten thousand according to the last published census for the time being, be the council of that borough, and, as respects the area of any royal, parliamentary, or police burgh in Scotland, be the town council, and, as respects any other place, be the council of the county."*

Considering the strongly poisonous nature of the alkaloids of tobacco and the careless manner in which bottles, and cans of powerful weed killers, sheep dips, &c., are left about in outhouses and other buildings, to which servants and ignorant labourers have access, this section seems to add considerably to the ease with which poisons can be obtained and with which accidents may and do occur.

The lists as they now, in 1911, exist are as follows :—

PART I.

Arsenic, and its medicinal preparations.

Aconite, aconitine, and their preparations.

Alkaloids—all poisonous vegetable alkaloids not specifically named in this schedule, and their salts, and all poisonous derivatives of vegetable alkaloids.

Atropine, and its salts, and their preparations.

Belladonna, and all preparations or admixtures (except belladonna plaisters) containing 0·1 or more per cent. of belladonna alkaloids.

Cantharides, and its poisonous derivatives.

Coca, any preparation or admixture of, containing 1 or more per cent. of coca alkaloids.

Corrosive sublimate.

Cyanide of potassium, and all poisonous cyanides and their preparations.

Emetic tartar, and all preparations or admixtures containing 1 or more per cent. of emetic tartar.

Ergot of rye, and preparations of ergots (*sic*).

Nux vomica, and all preparations or admixtures containing 0·2 or more per cent. of strychnine.

Opium, and all preparations or admixtures containing 1 or more per cent. of morphine.

Picrotoxin.

Prussic acid, and all preparations or admixtures containing 0.1 or more per cent. of prussic acid.

Savin, and its oil, and all preparations or admixtures containing savin or its oil.

PART II.

Almonds, essential oil of (unless deprived of prussic acid).

Antimonial wine.

Cantharides, tincture and all vesicating liquid preparations or admixtures of.

Carbolic acid, and liquid preparations of carbolic acid, and its homologues containing more than 3 per cent. of those substances, except preparations for use as sheep wash or for any other purpose in connection with agriculture or horticulture, contained in a closed vessel distinctly labelled with the word "Poisonous," the name and address of the seller, and a notice of the special purposes for which the preparations are intended.

Chloral hydrate.

Chloroform, and all preparations or admixtures containing more than 20 per cent. of chloroform.

Coca, any preparation or admixture of, containing more than 0.1 per cent. but less than 1 per cent. of coca alkaloids.

Digitalis.

Mercuric iodide.

Mercuric sulphocyanide.

Oxalic acid.

Poppies, all preparations of, excepting red poppy petals and syrup of red poppies (*papaver rhæas*).

Precipitate, red, and all oxides of mercury.

Precipitate, white.

Strophanthus.

Sulphonal.

All preparations or admixtures which are not included in Part I. of this schedule, and contain a poison within the meaning of the Pharmacy Acts, except preparations or admixtures the exclusion of which from this schedule is indicated by the words therein relating to carbolic acid, chloroform, and coca, and except such substances as come within the provisions of section five of this Act.

The last sentence wants a good deal of translation, which we confess we are unable to give it.

SPECIAL REMARKS ON IRISH LEGISLATION ON THE SUBJECT.

There are three Acts which have special reference to Ireland :
 " 33 & 34 Vic. c. 26. *An Act to regulate the sale of Poisons in Ireland.* July 14, 1870."

This is a short Act very similar in its terms to the Act for England, *vide* above, and making a Schedule of "Poisons."

Sec. 3 is worth quoting, it runs :—

" 3. *The provisions of the Act, 23 & 24 Vic., intituled an Act for preventing the Adulteration of articles of Food and Drink shall extend to all articles usually taken or sold as medicines, and every*

adulteration of any such article shall be deemed an admixture injurious to health."

The strict enforcement of which throughout the kingdom would be an excellent move.

"38 & 39 Vic. c. 57. *An Act to institute a Pharmaceutical Society and to regulate the Qualifications of Pharmaceutical chemists and of Chemists and Druggists in Ireland. The Pharmacy Act (Ireland). Aug. 11, 1875.*"

This needs no comment as it is couched in almost identical language with the similar Act for England, *vide* above, but we cannot refrain from quoting a portion of Sec. 31 which re-affirms the very harmful and pernicious words of the English Act.

"*Nothing in this Act contained shall extend to or interfere with the making or dealing in patent medicines . . .*"

"53 & 54 Vic. c. 48. *An Act to amend the Pharmacy Act (Ireland), 1875. Aug. 18, 1890.*"

It needs no comment here, as its provisions entirely refer to the internal economy of the Pharm. Soc. of Ireland and to the "personal" management of shops for retailing and compounding poisons and prescriptions, subjects of no active interest to registered medical men who are exempted from the provisions of the Act, in so far as prescribing for their own patients is concerned.

HISTORY OF OUR PHARMACOPŒIA.

I believe I am correct in stating that Herbals and similar collections of therapeutical remedies have existed in the English language almost from the date of the invention of printing, but none of them, of course, had the slightest pretension to anything approaching official authority. It, however, does not seem improbable but that books of this kind may have formed a sort of basis from which remedies more or less official were collected, and these collections formed into pharmacopœias of sorts. Be this as it may we find in 1862 the following statement made in the preamble of an Act of Parliament :—

And whereas different Pharmacopœias have hitherto been in use in *England, Scotland, and Ireland*, published in *England* under the Direction of the Royal College of Physicians of *London*, and sanctioned by an Order of Her Majesty in Council, published in *Scotland* under the Direction of the Royal College of Physicians of *Edinburgh*, but without any legal Sanction, and published in *Ireland* under the Direction of the King and Queen's College of Physicians in *Ireland*, and sanctioned by Act of Parliament :

which would therefore represent the state of affairs presumably up to 1858.

Sec. 54 of the Medical Act, 1858, runs :—

"*Sec. LIV. The General Council shall cause to be published*

under their Direction a Book containing a List of Medicines and Compounds, and the Manner of preparing them, together with the true Weights and Measures by which they are to be prepared and mixed, and containing such other Matter and Things relating thereto as the General Council shall think fit, to be called 'The British Pharmacopœia ;' and the General Council shall cause to be altered, amended, and republished such Pharmacopœia as often as they shall deem it necessary."

In 1862 it was found necessary to give the above section a wider authority and consequently

25 & 26 Vic. c. 91 was passed, of which secs. II. and III. run :—

" Sec. II. The exclusive Right of publishing, printing, and selling the said Pharmacopœia shall vest in the said General Council, subject to this Proviso, that it shall be lawful for the Commissioners of the Treasury from Time to Time to fix the Price at which Copies of the said Work are to be sold to the Public.

" Sec. III. The British Pharmacopœia, when published, shall for all Purposes be deemed to be substituted throughout Great Britain and Ireland for the several above-mentioned Pharmacopœias, and any Act of Parliament, Order in Council, or Custom relating to any of such last-mentioned Pharmacopœias shall be deemed, after the Publication of the British Pharmacopœia, to refer to such Pharmacopœia.

" Notice in the London, Edinburgh, and Dublin Gazettes to the Effect that the British Pharmacopœia has been published shall be deemed sufficient Evidence of its Publication for the Purposes of this Act, and a Copy of the said Pharmacopœia printed by such Person as may be named in the said Notice, or in any other Notice published in the said Gazettes, as authorized by the General Council to print the said Pharmacopœia, shall be admitted in Evidence as being the Pharmacopœia directed to be published by the above-mentioned Act."

It only remains to add that new editions are published every twelve years or so, the latest bearing date 1898, but I believe a new edition is in course of preparation and will appear soon.

This is hardly the place to discuss the value of such a work and the reasons for omissions and additions to successive editions, but we may mention two very valuable, indeed invaluable, works of reference on therapeutical remedies which every practitioner would do well to possess in their latest editions, viz., "Squire's Companion to the British Pharmacopœia" and Martindale and Westcott's "Extra Pharmacopœia." (The latest edition of this bears date 1912).

CHAPTER V

LEGISLATION RELATING TO THE PRACTICE OF MIDWIFERY

FROM time immemorial there have been midwives of greater or less skill and conscience, practising their calling in rivalry with medical practitioners. In the Medical Act of 1858 midwifery is not specifically mentioned as one of the subjects for examination for registrable qualification, but in the Act of 1886 (*vide* p. 58) it is specifically stated that before registration a medical practitioner must have been examined up to a satisfactory standard in midwifery. It is evident therefore that the public conscience was previous to 1886 being awakened to the evil effects of unrestricted midwifery practice, and we may say in the words of the Medical Act of 1858 "it was becoming necessary that the public should be able to know the qualified from the unqualified."

The Medical Acts, however, did not attempt to touch the question of the practice of midwifery by unqualified and unregistered women until with the spread of the idea of asepsis, the professional conscience was roused by the dreadful loss of life amongst parturient women, and the terrible effects on the newborn children of carelessness during parturition. The results of this "rousing" was the passage in 1902 of "2 *Edw.* 7, c. 17. *An Act to secure the better training of Midwives and to regulate their practice.* July 31, 1902," which very closely touches the practice of nearly every registered medical practitioner, and therefore requires to be noticed here in some of its clauses.

MIDWIVES ACT, 1902.

"1.—(1) . . . Any woman who not being certified under this Act shall take or use the name or title of midwife . . . shall be liable to a fine not exceeding five pounds.

"(2) . . . no woman shall habitually and for gain attend women in childbirth otherwise than under the direction of a qualified medical practitioner unless she be certified under this Act . . ."

Penalty ten pounds.

"(5) The certificate under this Act shall not confer upon any woman any right or title to be registered under the Medical Acts or to assume any name, title or designation implying that she is by law

recognised as a medical practitioner, or that she is authorised to grant any medical certificate, or any certificate of death or still-birth,¹ or to undertake the charge of cases of abnormality or disease in connection with parturition."

Sec. 3. Provides for the formation of the Central Midwives Board² and defines its duties and powers, of which the last clause is worth noting.

"And generally to do any other act of duty which may be necessary for the due and proper carrying out of the provisions of this Act. Rules framed under this section shall be valid only if approved by the Privy Council: and the Privy Council, before approving any such rules, shall take into consideration any representations which the General Medical Council may make with respect thereto."

Sec. 5. Entitles the C.M.B. (1) to charge a fee for certification and examination, (2) to devote these fees to the expenses of the examination and certification and to the general expenses of the council. It compels the C.M.B. to submit a balance sheet of moneys to the Privy Council *"and if the statement shows any balance against the Board and such balance is approved by the Privy Council the Board may apportion such balance between the councils of the several counties and county boroughs . . . and may recover from the councils the sum so apportioned."*

"Sec. 7. The C.M.B. shall with the previous sanction of the Privy Council, appoint a secretary and such other officers as may be required, and every person so appointed shall be paid such salary as the Privy Council may approve . . ."

"Sec. 8. Every council of a county or county borough . . . shall be the local supervising authority over midwives within the area of the said county or county borough."

"(1) to exercise general supervision . . ."

"(2) to investigate charges of malpractice, negligence, misconduct . . ." and to report the same to the C.M.B.

"Sec. 15. Any expenses under this Act payable by the council of a county or county borough shall be defrayed out of the county fund or out of the borough fund or borough rate as the case may be."

COMMENTS ON THE ACT.

At the time when this Act was only a Bill before Parliament it roused a great storm of discussion amongst general practitioners in regard to its effects upon practices; since it came into force

¹ *Vide* p. 71 as to the conditions under which a midwife can give a certificate of still-birth.

² In this chapter referred to under the initials C.M.B.

there has been time for these discussions to be settled by actual results, which I think may fairly be summarised as follows.

(1) That in the actual practice of midwifery *alone* no great harm has accrued, but

(2) Midwives registered under the Act do, either by achieving a reputation, or by having a reputation thrust upon them, assume responsibilities in the treatment, &c., of both child and mother which they are not entitled to do, and do not, as they should do, hand over the cases of illness sufficiently early to medical men for treatment, by thus acting it is probable that a good deal of harm is done.

(3) The chief defect in the Act itself was the entire omission of any direct machinery for obtaining a fee for the medical man whom the midwife is compelled to call in to her assistance when the case assumes a condition with which she is not competent to deal by the rules of the C.M.B., or by sec. 1 (5) of the Act. This defect is gradually being repaired in that many local authorities are now paying such fees, but all the same the position is not even now at all satisfactory, inasmuch as some local authorities still decline to pay such fees, trusting to the known philanthropy of the profession, while even in the cases where they are being paid they are being made to appear more as a charity, of doubtful legality, to the profession, than as a fair legal, and just appreciation of the services of a medical man, often quite inadequate either to the peril of the situation, or the skill required to extricate mother and child from that peril.

I append without comment some documents received from the President of the C.M.B. under date November 11, 1911. They prove that the third point mentioned above is still in an unsatisfactory position, and hold out but little hope of any early improvement.

I. THE I.G.B. CIRCULAR

Circular.

MIDWIVES ACT, 1902.

Guardians.

RULES OF THE CENTRAL MIDWIVES BOARD.

LOCAL GOVERNMENT BOARD,
Whitehall, S.W.,

29th July, 1907.¹

SIR,—I am directed by the Local Government Board to draw the attention of the Guardians to Section E. of the new rules of the Central Midwives Board, recently approved by the Privy Council for the period ending the 30th of September, 1909, a copy of which is enclosed.

¹ Is this a misprint for 1909 ?

MIDWIFERY PRACTICE IN POOR LAW ESTABLISHMENTS.

It will be observed from Rule No. 25 that nothing in Section E. applies to "certified midwives exercising their calling in Workhouses or Poor Law Infirmaries under the supervision of a duly appointed Medical Officer." The Central Midwives Board have by Rule 24 provided that certain of the Rules shall not apply to midwives exercising their calling under the supervision of a duly appointed medical officer within hospitals approved by them, and in addition to these there are others which would not be appropriate in the case of a midwifery nurse in a poor law establishment under the supervision of a medical officer. At the same time, the Board consider that the Rules are valuable as an indication of the precautions which are necessary, in the opinion of the highest authorities, to secure the safety and well-being of women during and after confinement; and the Board think it advisable that they should be adopted in midwifery practice in all poor law establishments with such modifications as the circumstances may render necessary.

APPOINTMENT OF MIDWIVES IN WORKHOUSES AND INFIRMARIES.

In this connection, the Board have had under consideration the arrangements for the attendance upon midwifery cases in workhouses and infirmaries.

The Order in force in the several Poor Law Unions contemplates that the Medical Officer of the Workhouse or Infirmary, as the case may be, will be responsible for all cases of childbirth occurring in the institution, and the Board have objected to the appointment of midwives who should take sole charge of women in labour. It appears to them, however, that, having regard to the fact that the Midwives Act, 1902, has now been for some time in operation, the objections which they have entertained to the employment by Guardians of midwives acting in that capacity in responsible charge of women in labour have ceased to be generally applicable. Where, therefore, Guardians desire to appoint midwives for the indoor poor, the Board would be prepared to consider applications for the purpose, and to issue an Order which may be necessary to enable effect to be given to the proposal. It must, however, be understood that in all such cases the Board will require that the midwife shall not only be a certified midwife (*i.e.*, a person whose name is on the Roll of Midwives), but shall have passed an examination held by the Central Midwives Board, or shall hold one of the certificates specified in Section 2 of the Midwives Act. It will also be necessary, when a certified midwife is thus employed in a Workhouse or Infirmary, that the Medical Officer should be at once sent for in all cases of difficulty (*see* Nos. 18 and 19 of the enclosed Rules), and that all other requirements of the Central Midwives Board, as laid down in their Rules in force for the time being, should be strictly observed, so far as they are applicable to such an establishment, including the keeping of a Register of cases similar in effect to that prescribed by Rule 22. The Board may add that, in those cases where the Medical Officer of the Workhouse is entitled to fees under Article 182 of the General Consolidated Order ¹ (or other similar Article in the Order in force in the Poor Law Union) for midwifery cases attended by him it will be desirable that it should be ascertained, before any proposal is submitted to the Board, that he would be willing to consent to the new arrangement.

¹ *Vide* p. 373, 2.

PAYMENTS TO MEDICAL PRACTITIONERS CALLED IN ON THE
ADVICE OF MIDWIVES.

The Board desire to take this opportunity of bringing under the notice of the Guardians their views on a question which, as their correspondence shews, has been a source of considerable difficulty to Boards of Guardians and other local authorities. The Board refer to the question of the payment for medical assistance in those cases where, under No. 18 of the enclosed Rules, a midwife has advised that such assistance should be obtained.

With regard to this matter the Board may refer to the provisions in Articles 182 and 183 of the General Consolidated Order, where these or similar Articles in other Orders are in force, and also to the enactment in Section 2 of the Poor Law Amendment Act, 1848 (11 and 12 Vict., c. 110).

If, where the Articles referred to are in force, the District Medical Officer attends in cases of the kind above mentioned, he will be entitled to the payments for which the Articles provide, should the woman be actually in receipt of relief, or should the Guardians subsequently decide that she was in a destitute condition, although no order for his attendance was given by a person legally qualified to make such order. Moreover, the section alluded to empowers the Guardians "if they think proper, to pay for any medical or other assistance which shall be rendered to any poor person on the happening of any accident, bodily casualty, or sudden illness, although no order shall have been given for the same by them or any of their officers, or by the overseers," and the Board are advised that, under this enactment, it is competent to the Guardians to pay the fee of any medical man called in on the advice of a midwife to attend upon a poor person in case of difficulty.

The Board would suggest that medical men and certified midwives practising in the Poor Law Union should be informed that, in cases arising under Rule 18, the Guardians will, on being satisfied that the woman is too poor to pay the medical fee, be prepared to exercise their powers under the Section and to pay a reasonable remuneration to the medical man called in. Any such payments should be on a definite scale which should be suitable to the local circumstances and to the services rendered, and which should be duly notified to the local medical practitioners.

It appears to the Board that the exercise by Boards of Guardians in a careful but liberal spirit of their powers under the enactment quoted will furnish a satisfactory solution of the problem to which they have referred, and that no reasonable ground of complaint should remain either to the public or to the medical profession. Moreover, general action on the part of Boards of Guardians in the direction indicated would tend to the preservation of two most important principles which are in danger of being overlooked; first, the responsibility of the husband or natural guardian of the patient to provide for her necessities, and secondly, the right of the Guardians to determine who, by reason of poverty, is entitled to medical assistance at the expense of the rates.

I am, Sir,

Your obedient Servant,

S. B. PROVIS,

Secretary.

The author would draw attention to the date of this circular compared with the date of the documents 2 and 3.

2. C.M.B. MEMO.

CENTRAL MIDWIVES BOARD.

MEMORANDUM ON THE SUBJECT OF THE DIFFICULTY EXPERIENCED BY MIDWIVES IN OBTAINING THE ASSISTANCE OF MEDICAL PRACTITIONERS IN CONSEQUENCE OF THE ABSENCE OF PROVISION FOR THE PAYMENT OF MEDICAL FEES UNDER SUCH CIRCUMSTANCES SUBMITTED TO THE PRIVY COUNCIL.

The omission of any specific provision in the Midwives Act for the payment of medical practitioners summoned, according to the Rules of the Central Midwives Board, to assist midwives in emergencies, has not unnaturally led to discontent among a large section both of the medical practitioners and the certified midwives of the country, and has seriously impeded the effective administration of the Act.

Section 3. VI. of the Act imposes on the Board the duty, and gives it the power, "to do any other act or duty which may be necessary for the due and proper carrying out of the provisions of this Act." Adequate security for the payment of a medical fee under the circumstances mentioned is "necessary for the due and proper carrying out of the provisions" of the Act, and the Central Midwives Board is accordingly desirous of discharging, as far as it can, the obligation attached to it by the sub-section quoted.

In many cases the patient and her husband are unable, or only with great difficulty able, to pay even a small fee to the doctor. Recognising the fact the Local Government Board on July 29, 1907, issued a circular to the various Boards of Guardians in England and Wales pointing out that under the existing law it was "competent to the Guardians to pay the fee of any medical man called in on the advice of a midwife to attend upon a poor person in case of difficulty."

The Local Government Board further suggested that the "medical men and certified midwives practising in the Poor Law Union should be informed that, in cases arising under Rule 18, the Guardians will, on being satisfied that the woman is too poor to pay the medical fee, be prepared to exercise their powers under the Section and to pay a reasonable remuneration to the medical man called in. Any such payments should be on a definite scale which should be suitable to the local circumstances and to the services rendered, and which should be duly notified to the local medical practitioners."

It is to be observed that, while there is power to pay medical fees in these circumstances, there is no obligation to do so. The option of exercising the power rests with the Guardians, and there is reason to think that in many cases Boards of Guardians have refused to act on the suggestion of the Local Government Board.

Whether this is so in the majority of cases or not the Central Midwives Board has no means of ascertaining, and hopes that the Privy Council may be in a position to obtain this information, as requested in the Board's letter of April 10.

In some cases the Guardians, while paying a fee to their own District Medical Officers, have declined to act on the larger powers they possess of paying the fees of other medical practitioners in similar cases.

From communications which reach the Central Midwives Board, or individual members of it, it is feared that the circular of the Local Government Board has, to a large extent, failed to secure its object. The Central Midwives Board has several examples of Guardians declining to adopt the suggestion of the Local Government

Board, and also of the effect of this inaction of the Guardians, viz., the refusal of doctors to attend.

The Central Midwives Board is convinced that the insecurity and uncertainty of the payment of their fees in such cases have led a considerable number of medical practitioners, either singly or in combination, to decline to attend when summoned on the advice of a midwife.

The Central Midwives Board would sum up the position as follows :—

- (1) The doctor refuses to attend when summoned on the advice of a midwife, because he has no reliance that his fee will be paid.
- (2) The midwife, through no fault of her own, is placed in a position of extreme difficulty and perplexity while trying to do her duty to her patient.
- (3) The patient runs grave and imminent risk of losing her life.

After careful consideration of the matter in all its aspects the Central Midwives Board suggests that a remedy for the dangers involved in the present state of affairs might be found by enacting that Local Authorities should be bound to provide the assistance of medical practitioners, distributed conveniently in their districts, and available in cases in which the Rules of the Central Midwives Board require a registered medical practitioner to be summoned on the advice of the midwife, with such guarantees for the *bona fides* of each case as might seem proper to the Local Authorities. In the opinion of the Central Midwives Board the Local Authority to deal with this difficulty should not, except in the case of the destitute, be the Guardians of the Poor.

June, 1908.

3. LETTER FROM C.M.B. CENTRAL MIDWIVES BOARD.

CANTON HOUSE,
WESTMINSTER,
LONDON, S.W.

November 10th, 1911.

DEAR SIR FRANCIS,—I am forwarding you—

(1) A circular letter issued by the Local Government Board on July 29, 1907, to the Clerks of the various Boards of Guardians in England and Wales.

You will see that the question of the payment of medical practitioners called in on the advice of midwives is dealt with on pages 2 and 3.

As you know, the Local Government Board have no power to compel Guardians to make these payments, but they have done their best to recommend them.

After writing both to the Privy Council and the Local Government Board, I have failed to get any list of the Boards of Guardians who make these payments. I believe that the majority now do, but no doubt there are many who do not.

(2) A copy of the Board's Memorandum on the difficulty experienced by midwives in obtaining the assistance of medical practitioners in emergencies.

(3) A copy of the new Rules.¹

I am afraid I have no further information in my possession which would be of assistance to Dr. Smith on these points.

Signed, G. W. DUNCAN.

¹ A copy of these rules, price 6d., may be obtained on application to the C.M.B.

Of these rules I think it right to insert the following :—

CONDITIONS IN WHICH MEDICAL HELP MUST BE SENT FOR.

19. In all cases of abortion, of illness of the patient or child, or of any abnormality occurring during pregnancy, labour, or lying-in, a midwife must explain that the case is one in which the attendance of a registered medical practitioner is required, and must hand to the husband or the nearest relative or friend present the form of sending for medical help (see Rule 22 (a)), properly filled up and signed by her, in order that this may be immediately forwarded to the medical practitioner. If for any reason the services of a registered medical practitioner be not available, the midwife must, if the case be one of emergency, remain with her patient and do her best for her until the emergency is over.

After having complied with the Rule as to the summoning of medical assistance, the midwife will not incur any legal liability by remaining on duty and doing her best for her patient.

20. The foregoing rule shall apply :—

(1) In all cases in which a woman during PREGNANCY, LABOUR, or LYING-IN appears to be dying or is dead.
PREGNANCY.

(2) In the case of a PREGNANT woman :

- (a) If the patient is a dwarf or deformed ;
- (b) Where there is loss of blood ;
- (c) Where there is abnormality or complication, such as—
Excessive sickness,
Puffiness of hands or face,
Fits or Convulsions,
Dangerous varicose veins,
Purulent discharge,
Sores of the genitals.

LABOUR.

(3) In the case of a woman in LABOUR at or near term, when there is any abnormality or complication, such as—

- Fits or Convulsions,
- A purulent discharge,
- Sores of the genitals,
- A malpresentation,
- Presentation other than the uncomplicated head or breech,
- Where no presentation can be made out,
- Where there is excessive bleeding,
- Where two hours after the birth of the child the placenta and membranes have not been completely expelled,
- In cases of serious rupture of the perinæum, or of other injuries to the soft parts.

LYING-IN.

(4) In the case of a LYING-IN woman, when there is any abnormality or complication, such as—

- Fits or Convulsions,
- Abdominal swelling and tenderness,
- Offensive lochia, if persistent,
- Rigor, with raised temperature.
- Rise of temperature above 100.4° F., with quickening of the pulse for more than twenty-four hours,
- Unusual swelling of the breasts with local tenderness or pain,
- Secondary post-partum hæmorrhage,
- White leg.

THE CHILD.

- (5) In the case of the CHILD, when there is any abnormality or complication, such as—
 - Injuries received during birth,
 - Any malformation or deformity in a child that seems likely to live,
 - Dangerous feebleness,
 - Inflammation of, or discharge from, the eyes, however slight,
 - Serious skin eruptions,
 - Inflammation about the navel.

(a) *Form of sending for Medical Help.*

No..... Date.....
This notice is sent on behalf of†

Address

I have advised that medical assistance be obtained on account of
.....
.....
.....

Signed.....Certified Midwife.

†The case is urgent.
Sent to (*name of doctor*).....
at (*address*)
Time of sending message.....

† Here fill in name of patient. ‡ If the case is not urgent cross this out.

CHAPTER VI

ACTS DEALING WITH VACCINATION

WHAT follows will be more easily comprehended if we first introduce a brief chronological synopsis of the subject.

Early times to 1790 *circa* Small pox very rife and unchecked by treatment.

Circa 1790 to 1830 .. Vaccination discovered and utilised privately, also inoculation.

Circa 1820 to 1840 .. Various ineffectual attempts made to introduce compulsory vaccination.

Vide Creighton's History of Epidemics in Great Britain.

1840.	1st Act passed ..	} Practically the whole of these were repealed by the Act of 1867.
1841.	2nd " " ..	
1853.	3rd " " ..	
1858.	4th " " ..	
1861.	5th " " ..	

1867. 6th " " .. This is the one analysed and amended in following pages.

1871. 7th " " .. Established vaccination officers, included below and threw on to their shoulders some of the parents' responsibilities.

1875. 8th " " .. Made Local Government Board responsible for carrying out the Acts.

1898. 9th " " .. Contained the famous or infamous conscientious objection clause.

1907. 10th " " .. Statutory Declaration instead of certificate for conscientious objection.

Vaccination Rules and Orders of L.G.B. bear dates 1903, 1905, 1907, 1910, &c.

IN SCOTLAND.

" 26 & 27 Vic. c. 108. *An Act to extend and make compulsory the practice of vaccination in Scotland. July 28, 1863.*"

Is the only Act I have on the subject specially relating to that country.

IN IRELAND.

" 14 & 15 Vic. c. 68. *Provided that the medical officer of every district constituted under the said Act shall and he is thereby required to vaccinate all persons who may come to him for that purpose . . .*"

" 21 & 22 Vic. c. 64. *An Act to make further provision for the practice of Vaccination in Ireland. Aug. 2, 1858,*" fixed fees for

successful vaccinations¹ and also forbade inoculation with variola in Ireland.

"26 & 27 Vic. c. 52. *An Act to further extend and make compulsory the practice of vaccination in Ireland.* July 13, 1863," amended the above two Acts; and "31 & 32 Vic. c. 87. *July 31, 1868,*" amended all three, but need not be further noted; it merely made free vaccination not "Parochial Relief" in a technical sense.

* * * * *

Probably there is no single disease or circumstance that has given rise to so much special legislation as vaccination. Prior to 1840 unsuccessful attempts were made to introduce compulsory state-paid operations, and then came success in the shape of 3 & 4 Vic. c. 29 (1840-1); between this and 1867 no less than five Acts were passed on the subject, viz. (4 & 5 Vic. c. 32; 16 & 17 Vic. c. 100; 21 & 22 Vic. c. 25; 21 & 22 Vic. c. 97; and 24 & 25 Vic. c. 59, all of which were specifically repealed by sec. 1 of the 1867 Act). In 1867 was passed 30 & 31 Vic. c. 84, "*An Act to consolidate and amend the Laws relating to Vaccination,*" which really forms the basis of the present position, though since then so many Acts have been passed that it is necessary here to construct a new Act, so to speak, by picking out here and there sections which go to the making of the position. Confusion does not end here, for in 1874 the Local Government Board was empowered to make rules and regulations of which at least three main editions have been issued with several smaller alterations, and these have to be treated like the Acts of Parliament (of which indeed they bear the authority, so far as medical men are concerned) to make a clear exposition of their present contents.

VACCINATION ACTS 1867 TO 1907.

FORMATION OF VACCINATION DISTRICTS: ESTABLISHMENT OF THE OFFICE OF PUBLIC VACCINATOR.

By previous Acts and by sec. 2 of the 1867 Act the country was divided up into districts for the purpose of vaccination, the boundaries and size of such districts have to be sanctioned by the Local Government Board.²

¹ This controverts a statement of the Chancellor of the Exchequer and certain officials of the British Medical Association in regard to the Insurance Act of 1911, that fees cannot be and are not ever fixed by Act of Parliament.

² The Local Government Board was established by Act of Parliament in 1871 (34 & 35 Vic., c. 70), to supersede the Poor Law Board, and to undertake certain duties hitherto performed by the Secretary of State and by the Privy Council; amongst the latter were included the supervision of the execution of all Vaccination Acts. In 1874, however, doubts

These Districts remain with local minor alterations up to the present time ; by sec. 13 such alterations have to be publicly notified.

Sec. 3 [of the 1867 Act] says :—

“ . . . when the said Board shall have approved of the same [boundaries and size] the Guardians shall enter into a contract with some duly registered Medical Practitioner for the performance of Vaccination [of all persons resident] within each district ; and every such Medical Practitioner shall be termed the Public Vaccinator of the District . . . ”

QUALIFICATIONS FOR PUBLIC VACCINATOR.

Sec. 4 of the 1867 Act provided for these and must now by St. R. & O. December 31st, 1903, run—

*“ The guardians . . . shall not enter into a contract for public vaccination with any registered medical practitioner, or approve of any such practitioner as deputy for a Public Vaccinator, unless he possesses a certificate of proficiency in Vaccination given by some person authorised by the L.G.B. to grant such certificates.”*¹

Sec. 6. Provided for the form of contract.

“ Sec. 7. The Guardians shall . . . make stipulations and conditions in their contracts to secure the due Vaccination of Persons . . . the Transmission of the Certificate of successful Vaccination and the fulfilment of all other Provisions of this Act on the part of the Public Vaccinator.”

Sec. 9. No Contract . . . shall be valid . . . until approved by the Local Government Board.

The contract must now run. St. R. & O. 1907, No. 381, First Schedule.

FORM OF VACCINATION CONTRACT.

Articles of Agreement entered into this day of 19
between of the one part, and the Guardians of the Poor of
the Union in the County of of the other part.

were expressed as to the power of the Local Government Board to make Rules and Regulations as to Vaccination, and consequently a short Bill was passed in that year (The Vaccination Act, 1874 (37 & 38 Vic., c. 75)), expressly conferring such powers on the Local Government Board.

¹ Such certificates are now demanded by all examining boards as a preliminary condition to admission to the final examination for a Licence, Diploma or Medical Degree, and all students are informed as to the conditions under which, and the persons from whom, such certificates may be obtained. In 1899 there were fourteen such, five in London. In 1905 power was given to such teachers of vaccination to grant certificates on examination only to Registered Medical Practitioners qualified prior to the date at which their respective examining Boards demanded the above certificate, in Ireland prior to January 1st, 1906. Such instructors are entitled to charge five shillings for certain cases of vaccination, *vide* p. 128.

Whereas the said Guardians have in pursuance of the several statutes in that behalf, with the approval of the Local Government Board, divided the Union aforesaid into Districts for the purpose of Vaccination, one of which districts comprises the Parishes and Places following ; that is to say,

, and the said Guardians have agreed with the said to enter into a Contract for the performance of Vaccination in the said District.

Now, therefore, the said doth hereby covenant and agree with the said Guardians and their successors that, from and after the day of , he will (subject to any Order as to Vaccination made by the Local Government Board under Section 7 of the Vaccination Act, 1898) by himself or (when he shall be unable to perform his duties in person) by the deputy who is herein-after mentioned, or who may hereafter be approved by the Guardians, and whose name may be endorsed hereon, duly and according to the requirements of the Acts and Orders relating to Vaccination perform the following duties :—

- (1) In the case of every child resident in the District, on the request of the parent or other person having the custody of the child, he will, within four weeks after the receipt of such request, visit the home of the child for the purpose of vaccinating the child.
- (2) In the case of every child resident in the District who has reached the age of four months, and as to whom he has received the requisite notice from the Vaccination Officer, he will visit the home of the child within four weeks after the receipt of the notice, and offer to vaccinate the child with glycerinated calf lymph, or other such lymph as may be issued by the Local Government Board, and if his offer is accepted will thereupon (or after such postponement, if any, as may in his opinion be necessary) so vaccinate the child.
- (3) In the case of a child whose age exceeds twelve months and in whose case the parent or person having the custody of the child, has requested that the child may be vaccinated elsewhere than at the home of the child and he, having regard to the provisions of subsection (4) of Section 1 of the Vaccination Act, 1898, has satisfied himself that the child can be safely vaccinated, he will perform the operation at his surgery or at such other place as may be arranged by him with the parent or person having the custody of the child.
- (4) In the case of any person other than a child, who applies to him for primary vaccination, or of any person applying to him for re-vaccination, who is not less than ten years of age, and has not been previously re-vaccinated within a period of ten years, he will, if so requested, visit the home of the person for the purpose of vaccinating or re-vaccinating him, or will, if not so requested, perform the operation at his surgery, or at such other place as may be arranged by him with the person so applying.
- (5) In every such case he will do and perform all such acts and things as, to the best of his judgment, and in accordance with the Rules and Regulations in force as to Vaccination, shall seem to him necessary for the purpose of causing the vaccination to be successfully terminated.

- (6) In every case in which he has performed vaccination he will, not less than six days nor more than fourteen days after the operation, attend at the place where the vaccination was performed, or, in the case of re-vaccination, at such other place as may be arranged, and inspect the result of the vaccination or re-vaccination; and will thereafter do such acts, and give such directions, and otherwise treat the case as may be necessary.
- (7) If any child vaccinated by him shall, in his opinion, require medical treatment in consequence of the vaccination, he will, if the parent or other person having the custody of the child consent, attend the child and prescribe such treatment as may be required.
- (8) He will keep a book, to be termed "The Vaccinator's Register," according to the form prescribed by the Local Government Board, to be provided for him by the said Guardians, and will, on the same day on which he shall have vaccinated any person to whom this Contract shall apply, and on the same day on which he shall have inspected the results of the vaccination of such person, make the entries respectively applicable to the vaccination and the inspection of results of the vaccination, and will on the day next before the first ordinary meeting of the said Guardians in every quarter of the year, and also at such other times as may be required by the Guardians or for purposes of audit, deliver, or cause to be delivered to their Clerk, the book in which he shall have made such entries during the interval preceding such meeting or audit.
- (9) He will make out an account at the end of every quarter of the sums payable to him under this Contract, and will cause the same to be delivered to the Clerk to the Guardians as soon as practicable after the end of the quarter.
- (10) He will perform any other duties in regard to vaccination which may be imposed on him by the Vaccination Acts, 1867 to 1907, or by any Rules and Regulations of the Local Government Board under those Acts.

And the said Guardians do, for themselves and their successors, covenant and agree with the said as follows:—

That is to say—to pay him, his executors or administrators, within one calendar month after Lady Day, Midsummer Day, Michaelmas Day, and Christmas Day respectively, during the subsistence of this Contract, and within one month after its termination, the following sums:—

- (1) A sum of not less than one shilling in respect of every child whose birth has been registered in his district after August 31, 1898, or who is resident in his district and whose birth has been registered in some other district after that date, or has not been registered at all, except in the case of a child who has died or has been removed from the district before attaining the age of four months, or who has been duly certified to be successfully vaccinated otherwise than by the Public Vaccinator, or to be insusceptible of vaccination, or to have had small-pox, before reaching that age, or with regard to whom a certificate under Section 2 of the Vaccination Act, 1898, or a valid Statutory Declaration under Section 1 of the Vaccination Act, 1907, is in force.
- (2) A sum of not less than two shillings and sixpence in respect of each case of successful vaccination performed by the

Public Vaccinator at his surgery or elsewhere than at the home of the person vaccinated where the case is that of—

A person other than a child, or

A child whose age exceeds twelve months and in whose case the parents or person having the custody of the child has requested that the child may be vaccinated elsewhere than at the home of the child, and the Public Vaccinator, having regard to the provisions of sub-section (4) of Section 1 of the Vaccination Act, 1898, has satisfied himself that the child can be safely vaccinated.

- (3) A sum of not less than two shillings and sixpence for every successful re-vaccination by the Public Vaccinator at his surgery or elsewhere than at the home of the person vaccinated.
- (4) A payment in respect of each case of successful vaccination or of successful re-vaccination performed by the Public Vaccinator at the home of the person vaccinated or re-vaccinated of a sum of

- (5) Provided that the agreement of the said Guardians with respect to the payments to be made to the said shall be subject to the following conditions ; that is to say—

(i.) Nothing in the paragraphs numbered (2) (3) and (4) shall apply in any case in which during a period of twenty-four consecutive hours successful vaccination or successful re-vaccination has been performed by the Public Vaccinator upon two or more persons at one and the same home, or on any premises (other than the surgery of the Public Vaccinator) whereon those persons were together present at any time during the aforesaid period. In every such case the amount to be paid to the Public Vaccinator shall be, in respect of the first person vaccinated or re-vaccinated, a sum of and in respect of every other person vaccinated or re-vaccinated a sum of ;

(ii.) Nothing in the paragraphs numbered (2) (3) and (4) or in the condition (i) shall authorise a payment to the Public Vaccinator in respect of the re-vaccination of a person who is less than ten years of age, or who has been re-vaccinated within the period of ten years immediately preceding ; and

(iii.) No payment shall be made to the Public Vaccinator in respect of any case of vaccination or re-vaccination unless the operation has been performed in accordance with the Rules and Regulations made by Us, and in force for the time being, and unless the provisions of the Vaccination Acts, 1867 to 1898, have been duly observed in relation to the case ;

nor shall any payment be made in respect of any case of vaccination or re-vaccination, the particulars of which shall not have been duly entered in the Vaccinator's Register, except in the case of any omission which shall be explained to the satisfaction of the said Guardians.

The said Guardians approve of as the occasional deputy of the said for the purposes of this Contract.

And it is mutually agreed that this Contract may be put an end to by either of the parties thereto, by giving twenty eight days' notice to the other party of the intention to put an end to the same.

In witness whereof the said hath hereto set his hand
and seal, and the said Guardians their Common Seal, the
day and year first above written.

Signed, sealed, and delivered by
the above-named in
the presence of



The Common Seal of the Guardians of the above-named Union was hereto affixed at a Meeting of the Board of Guardians, held on the day of the date hereof by Chairman of the Board at the said Meeting, in the presence of

Clerk to the Guardians of the said Union.

FEES FOR VACCINATION UNDER CONTRACT.

Sec. 10. No payment for Vaccination to be made out of local funds unless the contract has been approved by the Local Government Board.

"Sec. 11. Where a District shall have been assigned to a Vaccinator he shall not be entitled to be paid a fee in respect of the Vaccination or re-vaccination of any child or other Person resident out of his District, except in the case of a vacancy in the Office of Vaccinator in any adjoining District or of the Default of the Vaccinator therein . . ."

These sections it will be observed are, with the possible exception of the 11th, fully covered by the form of Contract above quoted.

"Sec. 22 of the 1867 Act. No fee or remuneration shall be charged by the Public Vaccinator to the Parent or other person for any certificate or duplicate certificate [required by his contract] nor for any Vaccination done under his contract, nor shall he be entitled to Payment under his contract for any Vaccination in respect of which he shall have been paid by the Parent or other Person for whom or on whom it is performed; and if he should have received Payment under his Contract he shall not be entitled to recover payment for the Vaccination from any other person."

With regard to payments under the contract they are now made according to the following scale (Stat. R. & O. 1907, No. 381); modifications above the minimum are permitted as the following paragraphs from a circular issued by the L.G.B. on May 22, 1907, will show.

The effect of these Rules will be that where the district is situate wholly or partly in London, or in a borough or other urban district with a population according to the return of the last census for the time being of not less than 50,000, the amount of the payment must in every case be not less than 2s. 6d., and where the district is not so situate, the amount must in every case be not less than 3s. 6d.

It will be understood that the payments fixed by the Order are only minima, that the precise sum to be paid should be determined

by agreement between the Guardians and the Public Vaccinator, and that it will be fixed by the contract to be approved by the Board. Each case must be considered on its merits in determining the actual fee to be paid, and the Board may state that as regards districts which are only partly situate in London, or in a Borough or urban district with a population of not less than 50,000, they contemplate that a higher fee than a minimum will be fixed if the circumstances of the district in respect of area and population are such that a higher fee should be properly paid.

The Order deals specially with cases where during a period of 24 hours successful vaccination or successful re-vaccination has been performed by the Public Vaccinator upon two or more persons at one and at the same home or on any premises (other than the surgery of the Public Vaccinator) on which those persons were together present at any time during this period.

In any such case the amount to be paid to the Public Vaccinator will be subject in respect to the first person vaccinated or re-vaccinated to the Rules as to the minimum fees above referred to. But otherwise the amount to be paid in such cases must be mutually agreed upon by the Guardians and the Public Vaccinator and approved by the Board, or in default of agreement determined by the Board.

The scale itself is as follows :—

- (1) As inserted in the Contract under (1).
- (2) As inserted in the Contract under (2), but authorised Teachers of Vaccination appointed before May 21, 1907, may continue to charge five shillings for each successful primary vaccination of any child, performed elsewhere than at the home of the child.
- (3) As inserted in the Contract under (3).
- (4) In the Contract must be inserted an amount not less than the sum specified in such one of the rules set forth in this paragraph as is applicable to the case ; that is to say—

Rule 1. Where the District is one which is wholly situate in the County of London, or is wholly situate in a Borough or in another Urban District, with a population, according to the returns of the last census for the time being, of not less than fifty thousand persons, the amount of the payment in every case shall be a sum not less than two shillings and sixpence.

Rule 2. Where the District is one of which a part only is situate in the County of London, or of which a part only is situate in a Borough or in another Urban District, with a population, according to the returns of the last census for the time being, of not less than fifty thousand persons, the amount of the payment in every case shall be a sum not less than two shillings and sixpence.

Rule 3. Where the District is one to which Rule 1 and Rule 2 are inapplicable, the amount of the payment in every case shall be a sum not less than three shillings and sixpence.

- (5) Except so far as this subdivision otherwise provides, nothing in (2) (3) and (4) shall apply in any case in which during a period of twenty-four consecutive hours successful vaccination or successful re-vaccination has been performed by the Public Vaccinator upon two or more persons at one and the same home, or on any premises (other than the surgery of the

Public Vaccinator) whereon those persons were together present at any time during the aforesaid period.

In every such case, the amount to be paid to the Public Vaccinator shall in respect of the first person vaccinated or re-vaccinated, be the sum which being not less than the sum specified in such one of the Rules herein-before set forth as is applicable to the case of that person.

In respect of the others "after the first," the amount must be mutually agreed upon by the Guardians and the Public Vaccinator and approved by the Local Government Board, or in default of such agreement determined by the Board.

Nothing in (2), (3), (4), and (5) shall authorise a payment to the Public Vaccinator in respect of the re-vaccination of a person who is less than ten years of age, or who has been re-vaccinated within the period of ten years immediately preceding.

The number of children in respect of whom payments are to be made in pursuance of (1) shall be the number of children in the Lists to be sent by the Vaccination Officer to the Public Vaccinator as provided by paragraph 6 (a) of the "Instructions to Vaccination Officers, *vide* p. 142, together with the number of children not included in those Lists, but vaccinated by the Public Vaccinator himself.

Every payment to be made to the Public Vaccinator in accordance with this article shall, subject to such of the provisions of this Article as fix the least amount payable, be of such amount, and shall be made at such times, and subject to such conditions as are fixed and prescribed in the contract in force for the time being.

(4) Every payment made to the Public Vaccinator in accordance with this Article shall be deemed to include any expense in respect of postage incurred by the Public Vaccinator, unless otherwise agreed between him and the Guardians.

No payment shall be made to the Public Vaccinator in respect of any case of vaccination or re-vaccination unless the operation has been performed in accordance with the Rules and Regulations made by the Local Government Board and in force for the time being, and unless the provisions of the Vaccination Acts, 1867 to 1898, have been duly observed in relation to the case.

All disputes as to payments under Contract shall be settled by the Local Government Board.

Stat. R. & O. 1898, art. 4. Lays it down that "where a workhouse is a Vaccination District" the contract shall run on very similar lines to the above; the differences are as follows:— (this contract has not been altered since 1898).

In the preamble *substitute* "Workhouse of the said union" *for* "Parishes and Places"; "at the said workhouse" *for* "in the said District."

In cl. 1. "Workhouse, school or infirmary under the management of a Board of Guardians" *for* "district"; "attend at the workhouse" *for* "visit the home of the child."

In cl. 2. "workhouse" *for* "district"; "two months" *for* "four months"; "without having been vaccinated" *for* "par. about receiving notice."

Cl. 3. Does not appear in the workhouse contract.

Cl. 4. Appears in the following form:—

- (3) He will vaccinate any other person resident in the workhouse applying to him for primary vaccination or re-vaccination, provided that in the case of re-vaccination such person shall not be less than ten years old, and shall not have been previously re-vaccinated within a period of ten years.

Cl. 5. Is identical, only that it is cl. 4.

Cl. 6. *Re* inspection of result—contains the words “if the person vaccinated is still in the workhouse inspection to be between the 5th and 10th day.”

Cl. 7. *Re* treatment of illness due to Vaccination does not appear (apparently covered by 6).

Cl. 8. Identical, but numbered 6.

Cl. 9. *Re* accounts does not appear.

Cl. 10. Identical, but numbered 7.

The counter agreement as to its payment clause is much simpler and runs—

That is to say—to pay him, his executors, or administrators, within one calendar month after Lady Day, Midsummer Day, Michaelmas Day, and Christmas Day, respectively, during the subsistence of this contract, and within one month after its termination, the sum of not less than two shillings and sixpence for every successful primary vaccination or re-vaccination:

Provided that no payment shall be made in respect of any primary vaccination or re-vaccination unless the same shall have been performed in accordance with the conditions prescribed by the Vaccination Order, 1898, nor unless the provisions of the Vaccination Acts, 1867 to 1898, and of that Order in regard to certificates and their transmission, and otherwise shall have been observed in relation thereto, nor shall any payment be made in respect of any vaccination or re-vaccination, the particulars of which shall not be duly entered in the vaccinator's register, except in the case of any omission which shall be explained to the satisfaction of the guardians.

The said Guardians approve of as the occasional deputy of the said for the purposes of this contract.

Then follow the concluding clause of notice to cancel the contract, the witness and signatures precisely as in the ordinary contract.

Feeling that there was some little confusion with regard to Vaccination fees I wrote to Dr. Joseph Loane, who kindly replied as follows:—

OFFICE OF THE PUBLIC VACCINATOR,
No. 13, Great Alie Street,
London, E.
October 26th, 1911.

DEAR DR. SMITH,—In the original order the vaccination and re-vaccination fees payable by Boards of Guardians to Public Vaccinators were fixed by the Local Government Board as follows:—For primary vaccinations a minimum of 5s. per successful case and

2s. 6d. for each successful re-vaccination after the first. The exact fees were as stated in the contract made by the Guardians between themselves and the Public Vaccinators. Now, by Order, the minimum has been reduced to 2s. 6d., but each Board of Guardians is free to pay larger fees should they care to do so. In my own case, the Whitechapel Board of Guardians agreed to my suggestion and I now receive a fee of 5s. per successful vaccination for the first case when done at home, subsequent vaccinations (twins, &c.) are subject to a fee of 2s. each.

Re-vaccinations at home are subject to the same fees.

When many vaccinations or re-vaccinations are performed at schools or institutions, then I receive a fee of 2s. per successful case. The contract has to receive the sanction of the Local Government Board. I enclose you a form of account, which will explain matters more simply.

With kind regards,

Sincerely yours,

JOSEPH LOANE.

PUBLIC VACCINATOR.

WHITECHAPEL UNION.

FEES due to the PUBLIC VACCINATOR, Quarter ending

Item in Contract.	DESCRIPTION.	NUMBER.	FEE as in Contract.	AMOUNT.		
				£	s.	d.
(1)	(a) Children entered in Form H by the Vaccination Officer, Month of.....	.....	1/-			
	„					
	„					
(2)	(b) Children not entered in such lists, but Vaccinated by the Public Vaccinator (Supplement Form H) ..	.....	1/-			
	Successful Vaccinations of persons other than Children, and of Children whose age exceeds 12 months, elsewhere than at the home of the person Vaccinated					
(3)	Successful Re-Vaccinations of persons not less than 10 years of age, elsewhere than at the home of the person Vaccinated .. ..	.....	2/6			
(4)	Successful Vaccinations or Re-Vaccinations performed at the homes of the persons Vaccinated or Re-Vaccinated .. ..	.....	2/6			
	Successful Vaccinations or Re-Vaccinations performed at the homes of the persons Vaccinated or Re-Vaccinated					
		.....	5/-			

FEES due to the PUBLIC VACCINATOR, etc.,—continued.

Item in Contract.	DESCRIPTION.	NUMBER.	FEE as in Contract.	AMOUNT.		
				£	s.	d.
(5)	Successful Vaccinations or Re-Vaccinations together—First	I	5/-			
—	Remainder .. .. .	.....	5/-			
—	Successful Vaccinations at Teaching Station .. .. .	.....	5/-			
	TOTAL £					

I declare this to be a true account of fees due to me,

Public Vaccinator.

INSTRUCTIONS TO PUBLIC VACCINATORS.

With regard to details which are not expressly inserted in the contract the following instructions are issued to Public Vaccinators by Stat. R. & O. 1898 and 1907.

(1.) (Art. 6 St. R. & O., 1898). The duly accepted Deputy may act when on account of reasonable absence from the district or on some other sufficient ground the Public Vaccinator cannot act.

(2.) The time of visit is to be either mutually agreed upon between the Public Vaccinator and the parent, or not later than 4 p.m., and notice of visit must be given in the following form

Notice from Public Vaccinator to Parent or other Person having Custody of Child of intended visit.

Directions for filling up this Notice.

To¹

In accordance with section 1 (3) of the Vaccination Act, 1898, I hereby give you notice that I shall visit the home of the child² on³, and shall offer to vaccinate it with glycerinated calf lymph, or such other lymph as may be issued by the Local Government Board.

¹ Name and address of parent or other person having custody of the child.

² Name of child.

³ Date of intended visit.

Dated this day of , 18 .

(Signed)

Public Vaccinator of the
District of the Union.

Address of Public Vaccinator,

3.) In the performance and inspection of vaccinations . . . he shall observe the following instructions

Instructions to Vaccinators under Contract.

(1.) Except so far as any immediate danger of small-pox may require; the public vaccinator must vaccinate only subjects who are

in good health. As regards infants, he must ascertain that there is not any febrile state, nor any irritation of the bowels, nor any unhealthy state of the skin, especially no chafing or eczema behind the ears, or in the groin, or elsewhere in folds of skin. He must not, except of necessity, vaccinate in cases where there has been recent exposure to the infection of diseases such as measles, scarlatina, or diphtheria, nor where erysipelas is prevailing in or about the place of residence.

(2) A certificate of postponement must be given by the public vaccinator in the form prescribed by the Local Government Board or to the like effect.

(3) All public vaccinations are to be performed with glycerinated calf lymph, or with such other lymph as may be issued by the Local Government Board. If the parent or other person having the custody of the child requires that it shall be vaccinated with lymph issued by the Local Government Board, the vaccination must be performed with such lymph.

(4) The public vaccinator must keep such record of the lymph he uses for vaccinating as will enable him always to identify the origin of the lymph used in each operation. He must not employ lymph supplied by any person who does not keep an exact record of its source.

(5) The public vaccinator must keep in good condition the lancets or other instruments which he uses for vaccinating, and he must not use them for any other purpose whatever. When he vaccinates he must cleanse and sterilise his instruments after one operation before proceeding to another, and must always, when vaccinating, have with him the means of doing this. When once he has unsealed a tube of lymph he must never attempt to keep any part of its contents for the purposes of vaccination on a future occasion. Under no circumstances should the mouth be applied directly to the tube in which the lymph is contained for the purpose of expelling the lymph. In the case of ordinary capillary tubes an artificial blower may properly be used for this purpose.

(6) Vaccination should at every stage be carried out with aseptic precautions. These should include: 1st, the cleansing of the surface of the skin before vaccination; 2nd, the use of sterilised instruments; and 3rd, the protection of the vaccinated surface against extraneous infection both on the performance of the operation and on inspection of the results.

Advice as to the precautions to be taken in this respect until the scabs have fallen and the arm has healed should always be given to the person having the custody of the child.

(7) In all ordinary cases of primary vaccination the public vaccinator must aim at producing four separate good sized vesicles or groups of vesicles not less than half an inch from one another. The total area of vesiculation resulting from the vaccination should not be less than half a square inch.

(8) The public vaccinator must enter all cases in his register on the day when he vaccinates them, together with all particulars required in the register up to and including the column headed "Initials of person performing the vaccination." The results of the vaccination, which must be attested by the initials of the person who inspects the case, are to be entered upon the day of inspection. In cases of successful primary vaccination the public vaccinator must record the number of separate scarified areas, punctures, or groups of punctures made, and the number of separate normal vaccine vesicles or groups of vesicles which have been produced.

In cases of re-vaccination he must register as "successful" only those cases in which either vesicles, normal or modified, or papules surrounded by areolæ have resulted. When any operation (whether vaccination or re-vaccination) has to be repeated owing to want of success in the first instance it should be entered as a fresh case in the register.

BOOKS, FORMS AND REGULATIONS.

These have all undergone considerable alteration from time to time by successive Acts and Rules and Regulations, they now stand as follows.

Sec. 14, amended by the Vaccination Act, 1871, declares that the Local Government Board shall provide them and distribute them to local registrars and vaccination officers and the latter shall distribute them free of charge to public vaccinators and private medical practitioners, where necessary.

"Sec. 15 of the 1867 Act provides that:—*the Registrars of Births shall on, or within seven days after, the Registration of the Birth of any child not already vaccinated, give . . . to the Parent or . . . to the Person having custody of the child . . . the following notice—*

FORM A.

THE VACCINATION ACTS, 1867 TO 1898 AND THE VACCINATION ACT. 1907.

Notice of the Requirement of Vaccination.

*To the Father or Mother, or other person
having the custody of the Child herein
named.*

Copy hereunder the No. of the
Entry of the Child's Birth from
the Register Book.

Entry No.	}
--------------	---

1. I, the undersigned, hereby give you Notice to have the Child named¹ , whose birth is now registered, vaccinated by a Public Vaccinator or some other Medical Practitioner, pursuant to the Provisions of the Vaccination Acts, 1867 to 1898.

2. These Acts require every child to be vaccinated before it is six months old. The Vaccination may, however, be postponed by Medical Certificate, if the Child is not in a fit state to be vaccinated or if, in the opinion of the Public Vaccinator, the condition of the house in which the child resides is such, or there is or has been such a recent prevalence of infectious disease in the district, that the child cannot safely be vaccinated.

3. If you desire the child to be vaccinated by the Public Vaccinator before it is four months old, you should give notice to him in the following form (Form G), or to the like effect:—

To Public Vaccinator of the District of the
Union.

¹ Child's name and surname.

In accordance with Section 1 (2) of the Vaccination Act, 1898,
I hereby request that you will visit¹ for the purpose of
vaccinating² who is now residing at that address.

Dated this day of 19 .

(Signed)

Parent or other Person having the
custody of the said Child.

If you desire it you can obtain from the Vaccination Officer a copy of this form, with the name and address of the Public Vaccinator. The Public Vaccinator will visit the child's home for the purpose of vaccinating the child not earlier than 9 o'clock in the morning nor later than 4 o'clock in the afternoon, unless some other time shall have been arranged between him and you.

4. If within a week after the child has attained the age of four months, the Vaccination Officer has not received a certificate of its successful vaccination, or of its insusceptibility to vaccination, or of its having had small-pox, and has not in his possession a valid certificate of postponement of the vaccination of the child, and has not received such a statutory declaration as is herein-after mentioned in paragraph 6, the Vaccination Officer will give notice to the Public Vaccinator, and the Public Vaccinator will call at the home of the child before the child attains the age of six months and will offer to vaccinate the child with glycerinated calf lymph, or such other lymph as may be issued by the Local Government Board.

5. The Public Vaccinator will give you at least 24 hours' notice of his intention to visit the home of the child as mentioned above in paragraphs 3 and 4; and the visit will, in the absence of any sufficient reason for delay, be within four weeks after receipt of the notice from you or from the Vaccination Officer, as the case may be. If, when the Public Vaccinator visits the home of the child for the purpose of vaccinating it, or of offering to vaccinate it, you request that the vaccination should be performed with lymph issued by the Local Government Board, the Public Vaccinator will use such lymph.

6. You will be exempt from any penalty under Section 29 or Section 31 of the Vaccination Act, 1867, for not having the child vaccinated, if within four months from the birth of the child you make, in the Form set out below, or in a Form to the like effect, statutory declaration (which will be exempt from stamp duty), that you conscientiously believe that vaccination would be prejudicial to the health of the child, and within seven days thereafter, deliver or send by post the declaration to the Vaccination Officer for the district. This declaration may be made before a Solicitor who is a Commissioner for Oaths. It may also be made before a Justice of the Peace or before any other Officer authorised to receive a statutory declaration.

FORM OF DECLARATION.

I, of , in the parish of , in the county of ,
being the parent [or person having the custody] of a child named ,
who was born on the day of , 19 , do hereby
solemnly and sincerely declare that I conscientiously believe that
vaccination would be prejudicial to the health of the child, and I
make this solemn declaration conscientiously believing the same to

¹ Address of the child.

² Child's name and surname.

FORM C.

THE VACCINATION ACTS, 1867 TO 1898.

*Medical Certificate of Postponement of Vaccination
owing to the condition of the House, or the recent
prevalence of Infectious Disease in the District.*

I, the undersigned, hereby certify that¹
the child of²
aged³
born at⁴
in the Parish (Township) of⁴
in the County (Borough) of⁴
and residing at⁴
in the Parish (Township) of⁴
in the County (Borough) of⁴
cannot be safely vaccinated because⁵ of the condition
of the house in which the child resides [*or*⁵ because
of the recent prevalence of infectious disease in the
District].

For the above reason I do hereby postpone the
vaccination of the child until the⁶ day of

Dated this day of 19 .

(Signed)

Public Vaccinator of the Union of .

Directions for
filling up this
Certificate.

¹ Child's name and
surname.

² Father's or (if
the child is illegiti-
mate) Mother's name
and surname.

³ Child's age.

⁴ No. or name of
the House, and name
of the Street or Road,
and Parish, and
County or Borough.

⁵ Strike out the
words which do not
apply to the case.

⁶ This must not
exceed two calendar
months from the date
of the Certificate.

FORM D.

THE VACCINATION ACTS, 1867 TO 1898.

*Medical Certificate of Insusceptibility of successful
Vaccination, or of Child having had Small Pox.*

I, the undersigned, hereby certify¹
the child of²
aged³
born at⁴
in the Parish (Township) of⁴
in the County (Borough) of⁴
and residing at⁴
in the Parish (Township) of⁴
in the County (Borough) of⁴
⁵[has been⁶ times unsuccessfully vaccinated
by me, and is, in my opinion, insusceptible of
successful vaccination] *or*⁵ [has already had Small
Pox].

Dated this day of , 19 .

(Signed)

[Public Vaccinator of the Union of .
Medical Practitioner duly Registered.

Directions for
filling up this
Certificate.

¹ Child's name and
surname.

² Father's or (if
the child is illegiti-
mate) Mother's name
and surname.

³ Child's age.

⁴ No. or name of
the House, and name
of the Street or Road,
and Parish, and
County or Borough.

⁵ Strike out the
words which do not
apply to the case.

⁶ This number
must not be less than
three.

⁷ If the person
signing is not a Pub-
lic Vaccinator, strike
out this line.

FORM E.

THE VACCINATION ACTS, 1867 TO 1898.

Medical Certificate of successful Vaccination.

The Registrar
to insert the No.
of the Entry of
the Child's birth
in the Register
book.

Entry }
No. }

Directions for
filling up this
Certificate.

I, the undersigned, hereby certify that¹
the child of²
aged³
born at⁴
in the Parish (Township) of⁴
in the County (Borough) of⁴
and residing at⁴
in the Parish (Township) of⁴
in the County (Borough) of⁴
has been successfully vaccinated by me.

Dated this day of , 19 .

(Signed)

⁵[Public Vaccinator of the Union of].
Medical Practitioner duly registered.

¹ Child's name and
surname.

² Father's or (if
the child is illegiti-
mate) Mother's name
and surname.

³ Child's age.

⁴ No. or name of
the House, and name
of the Street or Road,
and Parish, and
County or Borough.

⁵ If the person
signing is not a Pub-
lic Vaccinator, strike
out this line.

FORM F.

THE VACCINATION ACTS, 1867 TO 1898.

Medical Certificate under Section 12 of the Vaccination Act, 1871, of successful Vaccination.

I, the undersigned, being a Public Vaccinator of
the Union of hereby
certify, that¹
the child of²
aged³
born at⁴
in the Parish (Township) of⁴
in the County (Borough) of⁴
and residing at⁵
has been examined by me, and that I find the said
child to have been successfully vaccinated.

Dated this day of 19 .

(Signed)

Public Vaccinator of the Union of

Directions for
filling up this
Certificate.

¹ Child's name and
surname.

² Father's or (if
the child is illegiti-
mate) Mother's name
and surname.

³ Child's age.

⁴ No. or name of
the House, and name
of the Street or Road,
and Parish, and
County or Borough.

⁵ Child's present
residence.

*Notice from Public Vaccinator to Medical Officer of
Health.*

To

Medical Officer of Health of the District.

In accordance with Section 1 (4) of the Vaccination
Act, 1898, I hereby give you notice that I have this

day postponed the vaccination of¹ the child
 of² who resides at³ on account of
⁴the condition of the house in which the child
 resides.
⁴the recent prevalence of infectious disease in the
 district.

¹ Child's name.

² Father's or (if
 the child is illegiti-
 mate) Mother's name
 and surname.

³ Child's residence.

⁴ Strike out that
 clause which does
 not apply.

Dated this day of , 18 .

(Signed)

Public Vaccinator of the
 District.
 Union.

Sec. 16. Not as it originally stood but as it now, by successive Acts, *vide* 61 & 62 Vic. c. 49, or Vaccination Act, 1898, stands :—

“(1) *The parent of every child born in England or [where by reason of the Death, Illness, Absence, or Inabilities of the Parent or other cause, any other person shall have the custody of such child] such other person shall, within six months from the birth of the child, cause it to be vaccinated by some medical practitioner.*

“(2) *The public vaccinator of the district shall, if the parent or other person having the custody of a child so requires, visit the home of the child for the purpose of vaccinating the child.*

“(3) *If a child is not vaccinated within four months of its birth the public vaccinator of the district, after at least 24 hours' notice to the parent, shall visit the home of the child, and shall offer to vaccinate the child with glycerinated calf lymph, or such other lymph as may be issued by the Local Government Board.*

“(4) *The public vaccinator shall not vaccinate a child, if, in his opinion, the child is not in a fit and proper state to be successfully vaccinated, [sec. 18 of 1867 Act] the condition of the house in which it resides is such, or there is or has been such a recent prevalence of infectious disease in the district, that it cannot be safely vaccinated, and in that case shall give a certificate under sec. 18 of the Vaccination Act of 1867 of postponement of vaccination, and shall forthwith give notice of any such certificate to the medical officer of health for the district.”*

The certificates here required are forms B. and C. on p. 136, and sec. 18 of the 1867 Act provides that such certificates shall remain in force for two months renewable for successive periods of two months until circumstances have rendered them no longer justifiable.

“(5) *Notwithstanding any regulation of any lying-in hospital or infirmary, or other similar institution, the parent of any child born in any institution shall not be compelled under such regulation or otherwise to cause or permit the child to be vaccinated at any time earlier than the expiration of six months from its birth.*

(6) This is sec. 1 of the Vaccination Act, 1907, and runs :—

“(1) *No parent or other person shall be liable to any penalty under sec. 29 or sec. 31 of the Vaccination Act of 1867, if within four months from the birth of the child he makes a statutory declaration that he conscientiously believes that vaccination would be prejudicial to the health of the child, and within seven days thereafter delivers or sends by post the declaration to the vaccination officer of the district.*

“(2) *A statutory declaration made for the purposes of this section shall be exempt from stamp duty.*

“(3) *A statutory declaration for the purposes of this section shall be made in the form on p. 135.*”

There is really very little to say about this section except just this one thing, that it has gone very far in the direction of annulling the whole object of the original Acts owing to the facilities it has afforded to anybody and everybody to evade any penalty for evasion of the Act. As, however, there are still private persons and officials who believe in vaccination the Act as it really stands must be proceeded with.

“*Sec. 20. If any Public Vaccinator or Medical Practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination or that a child has already had the Small-pox he shall deliver to the Parent or other Person (having custody of the child) a certificate (according to the Form on p. 137) and the Parent or other Person shall thenceforth not be required to cause the child to be vaccinated.*”

Sec. 21. Provides for the forwarding by public vaccinators (and registering) of certificates of successful vaccination either to the vaccination officer in the district within which the birth was registered or to the vaccination officer of the district in which the operation was performed “*and upon request shall deliver a duplicate to the Parent or other Person*” without charge.

Sec. 23. Throws on to the parent or person in custody of the child the responsibility of obtaining a certificate of successful vaccination and getting it signed and forwarding it for registration, if he employs a private practitioner to operate instead of a public vaccinator.

Sec. 24. Provides for the keeping of vaccination registers by Registrars of Births and Deaths and fixes fees for searching such Registers.

Sec. 25. The Registrar to be paid fees for the Registration.

Sec. 26. Vaccination and medical treatment incidental thereto not to be considered parochial relief as to disability or disqualification.

VACCINATION OFFICERS.

"34 & 35 Vic. c. 89. *An Act to amend the Vaccination Act, 1867.*" Sec. 5 runs:—

"Whereas . . . the guardians of any union or parish may pay any officer appointed by them to prosecute persons charged with offences against the Act of 1867 or otherwise to enforce its provisions . . . be it enacted that the guardians of every union and parish shall appoint and pay as many of such officers (in this Act referred to as 'Vaccination Officers') as the Local Government Board in its judgment deems necessary"; [and also as many assistants to the regular vaccination officers as the Local Government Board may deem expedient in face of an outbreak of small-pox or other cause (Stat. R. & O. 1898, art. 10 (11 and 12))].

The same Stat. R. & O. lay down regulations relating to the procedure of the election which need not be quoted here, except one which makes the appointment a life one except for insanity, or dismissal by the Local Government Board and not by the Guardians. They also provide for (1) a month's notice to terminate the appointment, (2) his remuneration; of no interest to medical men in general.

His duties on the other hand are, some of them at least, of some medical interest because of interlocking as it were between the duties of vaccination officers, public vaccinators and private medical practitioners under the various Acts and Rules relating to Vaccination.

We quote them in full. Stat. R. & O., 1898, amended 1907 and 1910.

Instructions to Vaccination Officers.

1. The duties of the vaccination officer will be to act as registrar of vaccination for the district to which he is appointed; to see that all children resident therein are duly accounted for as regards vaccination; and generally to carry into effect all such provisions of the Vaccination Acts, 1867 to 1907, and the Orders made thereunder as are applicable to his office.
2. The vaccination officer shall receive from the registrars of births and deaths the "monthly lists" of births and deaths which will be sent to him under the provisions of the Vaccination Act, 1871, and he shall be responsible for the safe custody of such lists, and of any lists which were sent to any former vaccination officer and have been transferred to him. In the columns which are provided for the purpose, in the part of the "monthly birth-list" sheets headed "Vaccination Register," he shall duly enter every certificate which he may receive of the successful vaccination of any child whose name is entered on the lists, or of its insusceptibility to vaccination, or of its having already had small-pox, and every certificate or statutory declaration of the conscientious belief of the parent

or other person having the custody of the child that vaccination would be prejudicial to the health of the child. All such entries must be made immediately on the receipt of the respective certificates or statutory declarations. He shall compare each monthly list of deaths with the corresponding and with the preceding lists of births, and as regards every child included in the death lists whose name is on the birth-lists but for whom he has not received one of the certificates or a statutory declaration above referred to, he shall enter the death in the column provided. And when on his personal inquiries, or by information from the vaccination officer of another district, or on other reliable authority, he shall have ascertained that a child included in the birth-lists for his district has died in some other district, he shall write off the case in like way. His work in those respects will be much facilitated by his keeping an alphabetical index to his birth-lists.

3. The vaccination officer shall forthwith enter on blank "birth-list" sheets which will be supplied to him for the purpose, on his applying to the registrar, any certificate or statutory declaration of the kind referred to in the last preceding paragraph which he may have received relating to any child whose birth has not been registered. He shall, as far as possible, transmit to the vaccination officer of the proper district a copy, certified by him, of any certificate of successful vaccination received by him relating to a child whose birth was registered in a district other than his own, and he will not be entitled to the fee in respect of such certificate unless he has made an entry in column 18 of his report book showing that the copy has been duly transmitted.
4. The monthly list of births, with the supplemental sheets referred to in the last preceding paragraph, which together constitute the "vaccination register" of the district, shall in the first instance be kept stitched, or otherwise fastened together, in a stiff cover, so as to preserve them from damage or dirt, and the vaccination officer shall from time to time cause them to be bound into volumes containing not more than 1,000 sheets in each volume.
5. If any list of births or deaths is not received from a registrar within one week from the time it is due, the vaccination officer shall report this in writing to the guardians at their next meeting, with a view to the registrars being immediately called upon for an explanation. The vaccination officer shall forthwith forward to the Local Government Board a copy of such report. If the vaccination officer shall lose any of the lists of births or deaths, he shall obtain another from the registrar at his own cost.
6. The vaccination officer shall see that all children entered on the birth-lists of his district are either duly vaccinated, or are otherwise properly accounted for in accordance with the law relating to vaccination.

He shall keep the birth-list examined from week to week, and—

- (a) If on the expiration of seven days after any child entered thereon shall have attained the age of three calendar months none of the certificates mentioned in paragraph 2 of these Instructions and no statutory declaration under section 1 of Vaccination Act, 1907 shall have been received by the vaccination officer,

and he shall not have in his possession a valid certificate of postponement in respect of such child, he shall proceed to give notice and make inquiry in the Form Q. set forth below with a view to obtain the requisite certificate. If on making these inquiries he is unable to ascertain that the child has been vaccinated, but the child is still resident in the district, the vaccination officer shall include the name and home of the child in a list which he will send to the public vaccinator in the Form H. set out below. The lists shall be sent once each week, and the name of each child shall be included in such list that it may reach the public vaccinator within three weeks of the child having attained the age of four months. The date of sending the notice to the public vaccinator must be entered by the vaccination officer in his Report Book.

- (b) Where the vaccination officer shall have excluded from the list sent by him to the public vaccinator the name and home of any child owing to its having in his possession a valid certificate of postponement in respect of such child, he shall on the expiration of such certificate forthwith deal with the case in the manner prescribed in subdivision (a) of this paragraph, unless such certificate shall be immediately renewed, or he shall have received in respect of the child one of the certificates mentioned in subdivision (a) paragraph 2 of these instructions.
 - (c) If the vaccination officer shall receive any certificate of postponement relating to any child not resident in his district he shall, so far as possible, transmit such certificate to the vaccination officer of the district where the child is resident.
 - (d) If the vaccination officer has not received in respect of any child a certificate under Section 2 of the Vaccination Act, 1898, or a statutory declaration under Section 1 of the Vaccination Act, 1907, within the time limited by those sections, and at the end of seven days after the expiration of six calendar months from the birth of the child, has not received any other of the certificates in paragraph 2, the vaccination officer shall forthwith give a notice in the Form K. set out below or to the like effect to the parent or person having the custody of the child by delivering the same by post or otherwise at the last known residence of such parent or person. If that notice is not duly complied with within the time specified therein, it will become the duty of the vaccination officer under the Vaccination Act, 1871, to take proceedings for the enforcement of the law.
7. The vaccination officer shall at all times use his best endeavours to ascertain whether children resident in his district, but not born in it, or, if so born, not having had their births registered in it, are unvaccinated, and it will be his duty in such cases, subject to the provisions of the Vaccination Acts, 1867 to 1898, to take the requisite steps for procuring their vaccination. Paragraph 6 of these instructions shall apply to such cases with the necessary modifications.
 8. The vaccination officer shall keep a book, to be called "The

Vaccination Officer's Report Book," in the Form M. set out below, in which he shall forthwith enter the particulars required with regard to children as to whom personal inquiries, and also all certificates of postponement with the date of the certificate, the cause for which it was given, the name of the practitioner who signed it, and the period for which it was given, with a view to any inquiries which may be necessary at the expiration of that period. When certificates of postponement are delivered to him on the form attached to the "Notice of the Requirement of Vaccination," he shall see that the parent or other person having the custody of the child is supplied with a new form of this Notice, with the required particulars duly filled in. Copies of the form of "Notice of the Requirement of Vaccination" can be obtained by the vaccination officer on his applying to the registrar. He shall note in the Report Book any further action taken in any case, and make any remarks which the case calls for. He shall take care to make the necessary reference in column VI. of the "Vaccination Register" to each case entered in the Report Book.

9. When the vaccination officer finds that a child has been successfully vaccinated, but that the vaccination has not been duly certified, or that any certificate of postponement, of insusceptibility, or of the child having had small-pox, has been given but has not been transmitted, he shall ascertain with whom the default rests, having regard to the requirements of Sections 21, 23, and 30 of the Vaccination Act, 1867, and Section 7 of the Vaccination Act, 1871, and shall forthwith take the necessary steps for obtaining the certificate required.
10. The vaccination officer shall carefully examine every certificate and statutory declaration received by him and shall not accept any certificate not signed by a registered medical practitioner, or, in the case of a certificate under Section 2 of the Vaccination Act, 1898, not signed as required by that section, or any statutory declaration under Section 1 of the Vaccination Act, 1907, not made in accordance with the requirements of that Act.
11. When the vaccination officer shall find that the parent or other person having the custody of any child, respecting whom he has not received a certificate or statutory declaration of the kind referred to in paragraph 2 of these instructions, has removed from the district, he shall take pains to ascertain the vaccination officer's district to which such removal has taken place, and shall give notice to the vaccination officer of that district, with a view to the vaccination of the child, and the due transmission to him of a copy of the necessary certificate or statutory declaration.

And whenever a certificate or statutory declaration respecting a child whose birth was registered in the district of some other vaccination officer is sent to him, he shall take pains to ascertain the district in which the birth took place, and when he has ascertained it, he shall forward to the vaccination officer of that district a copy of the certificate or statutory declaration.

12. The vaccination officer shall keep a book in the Form N. (not quoted here), in which he shall enter a summary of his proceedings under the Vaccination Acts, 1867 to 1898, in each month.

13. The vaccination officer shall prepare at the end of every half-year a summary of the vaccinations in his district, and at the commencement of each year a supplemental return of vaccination in his district, in the forms prescribed and issued by the Local Government Board, and shall submit one copy of each of such summaries to the guardians, and shall transmit another copy to the Local Government Board, and shall himself preserve another copy for reference. He shall also furnish such other returns to the Guardians and Local Government Board as the latter may direct.
14. The vaccination officer shall, on any outbreak of small-pox, make such house-to-house visitations as the Local Government Board or the guardians may direct in reference to vaccination, and carry out any special instructions which the Board or the Guardians may issue on the subject.
15. The vaccination officer shall see that the registrars of births and deaths in his district are kept informed of his own name and place of abode or office, in order that the address on the notices of the requirement of vaccination delivered by the registrar to parents may be correct.
16. The vaccination officer shall undertake the distribution of the certificates, books, and other forms issued by the Local Government Board to the public vaccinators and medical practitioners in his district, and shall, on request, furnish any parent or other person having the custody of a child with a copy of the Form G, set out on p. 134, duly filled in, and with the name and address of the public vaccinator written on the back thereof.
17. The vaccination officer shall be responsible for the safe custody of the vaccination registers, except any bound registers which do not contain any entry of a birth registered within the last preceding seven years, and which he may, with the guardians' consent, have deposited in the union offices.
18. The vaccination officer shall preserve every certificate and statutory declaration received by him, and the lists, in the Form H. set out below, which shall have been returned to him by the public vaccinator, until after the inspection by an Inspector of the Local Government Board of public vaccination in the union next following the date of the certificate or statutory declaration, and shall not, in any case, destroy any of them until two years have elapsed from its date.

FORMS REFERRED TO IN THESE DUTIES.

Form G. is included in Form A. on p. 134.

FORM H.

THE VACCINATION ACTS, 1867 TO 1898.

List of Children in respect of whom the necessary Certificates have not been received by the Vaccination Officer.

To

Public Vaccinator of the
Union.

District of the

In accordance with paragraph 6 (a) of the Instructions to Vaccination Officers in the Fourth Schedule to the Vaccination Order, 1898.

and the Vaccination Act, 1907, I hereby give you notice that the children whose names and addresses are stated below, and with respect to whom I have not received the necessary certificates or statutory declarations under the Vaccination Acts, 1867 to 1898, or any statutory declarations under the Vaccination Act, 1907, attained the age of four months on the dates respectively specified in Column 4.

Dated this day of , 19 .

(Signed)

Vaccination Officer for the .

No. in Birth Register.	Child's Name.	Child's Address.	Date on which the Child attained the Age of Four Calendar Months.	Dates of Notice by Public Vaccinator to Parent.	Date of Visit.	Result of Visit.	Remarks.
(1.)	(2.)	(3.)	(4.)	(5.)	(6.)	(7.)	(8.)

NOTE.—It is the duty of the Public Vaccinator to visit the homes of these children within four weeks after receipt of this notice, and to offer to vaccinate them in manner provided by the Vaccination Act, 1898, and the Rules and Regulations of the Local Government Board.

N.B.—Columns (5) to (8) are to be filled up by the Public Vaccinator.

FORM Q.

THE VACCINATION ACTS, 1867 to 1898, AND THE VACCINATION ACT, 1907.

Notice by Vaccination Officer to Parent or other Person having Custody of Child with regard to transmission of Certificate of successful Vaccination, and inquiry respecting same.

To

I hereby give you notice that on the.....day of.....19....., your Child will be four months old, and that, unless within seven days from that date I shall have received from you or from the Public Vaccinator a certificate of the successful vaccination of the said Child, or a statutory declaration made under Section 1 of the Vaccination Act, 1907, within four months from the birth of the Child, or some other legal excuse for the non-vaccination of the Child, it will be my duty to notify the case to the Public Vaccinator, who will then in due course visit the Child's home and offer to vaccinate the Child.

If, however, you should propose some other arrangement for the vaccination of the Child, I shall be glad to be informed of the same.

Dated this.....day of.....19.....

(Signed)

Vaccination Officer for

Address of Vaccination Officer

* * * * *

REMAINDER OF THE ACT OF 1867.

"Sec. 29. Every parent or person having the custody of a child who shall neglect to cause it to be vaccinated or after vaccination, to be inspected and shall not render a reasonable excuse for his neglect shall be guilty of an offence, and be liable to be proceeded against summarily, and upon conviction to pay a penalty not exceeding twenty shillings.

"Sec. 30. Every Public Vaccinator [Medical Practitioners 1871 Act] parent or person as the case shall require who shall neglect to transmit any certificate required of him by the Vaccination Acts 1867—1907, Rules and Reg. 1898—1910, completely filled up and legibly written, to the vaccination officer . . . shall be liable to a penalty not exceeding twenty shillings. And every person who wilfully signs a false certificate or duplicate [under the same Acts and Regulations] shall be guilty of a misdemeanour and be liable to fine or to imprisonment with or without hard labour for a period not exceeding two years. Vacc. Act, 1871."

"Sec. 31. If any Registrar or any officer appointed by the Guardians to enforce the provisions of this Act shall give information in writing to a Justice of the Peace that he has reason to believe that any child under the age of fourteen years being within the Union or Parish for which the informant acts has not been successfully vaccinated and that he has given notice to the parent or person having the custody of the child to procure its being vaccinated and that this notice has been disregarded, the Justice may summon such person or parent to appear before him . . . and may make an order . . . for vaccination within a certain time ; if at the expiration of such time the child shall not have been vaccinated, or shown to be unfit or insusceptible, the parent or person in charge shall be proceeded against summarily unless he can show some reasonable ground for his omission . . ."

With regard to these three penal clauses the only one of importance to medical men is sec. 29 which is still in operation and proceedings have, though very rarely, been taken against medical men who have rendered themselves liable.

The others are practically dead letters now, thanks to the ease of making a statutory declaration.

"Sec. 32. Any person who shall . . . produce or attempt to produce in any person by inoculation with variolous matter or by wilful exposure to variolous matter or to any matter, article, or thing impregnated with variolous matter or wilfully by any other means whatsoever produce the disease of small-pox in any person, shall be guilty of an offence . . . penalty one month imprisonment."

This section requires no comment.

CHAPTER VII

LEGISLATION SPECIFICALLY RELATING TO CHILDREN

THE medical profession, whether admittedly so or not for political purposes, is and must be the custodian of the health of the nation, and therefore *all* legislation referring to children and their lives must have a special interest for medical practitioners, even where they are not the direct instruments chosen to carry out the purposes of such legislation ; no excuse therefore is needed for wandering a little in this chapter from the strict verbal purposes of this work, and I shall insert several sections of Acts dealing with children which are not, strictly speaking, medical.

I would have liked to subdivide this chapter into sections, each dealing exclusively with one of the main departments of children's interests, *e.g.*, Registration of their births, care and rearing of Infants, education, protection from overwork while immature, epidemiology amongst children, health while at school, cruelty to children, &c., but I found that such a division was impracticable when dealing with the individual Acts. I have therefore had to introduce a good deal of my commentary amongst the individual sections of Acts ; some little confusion is thereby entailed, but I have tried to obviate this through the index to the whole work and a brief epitome as follows :—

Registration of Births.—Dealt with elsewhere, *vide pp. 70 et seq.*

Management and rearing of Infants.—The only legislation dealing with this is to be found in the 1908 Act dealing with baby farming, p. 154. We sadly need thoughtful legislation on the subject.

Work of children and cruelty to them.—Included in several Acts below.

Epidemiology.—Dealt with very much in Notification of Diseases Acts under the work of Medical Officer of Health.

Education and Health.—Since 1870 dealt with in combined Acts, and especially the later ones with School Inspection clauses.

It is not without interest to close this introduction to the chapter with a table of the various definitions of child and young person as to age.

For registration and notification.	At least 28 weeks of intra-uterine life. (Notification of Births Act, 1907.)
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To commence school	..	At least 5 years. Education Act, 1870.
To continue at school	..	Till 14. (Elementary Education Act, 1900.)
Not to go to work	.. ..	Under 10 in any case; over 10, under 14, without a certificate of proficiency in the three R's.; husbandry excepted then not under 8. In this Act a child is defined as between the ages of 5 and 14 (Education Act, 1876), modified by the Employment of Children Act of 1903, so that a local authority may prescribe the age below which employment is illegal.
If blind or deaf, <i>vide</i> Elementary Education (Blind and Deaf Children) Act, 1893.		A child is a child till 16.
If defective or epileptic, Act of 1899.		A child is a child till 16.
Employment of Children Act, 1903.		A child is a child till 14.
Children Act, 1908	.. ..	An infant while under 7; a child while under 14; young person, 14 to under 16.
Criminal Law	.. ..	Procurement under 21; sexual connection under 13, felony; sexual connection, 13 to 16, diminishes the offence and consent pleadable; abduction under 18 (Criminal Law Amendment Act, 1885).

A LIST OF ACTS RELATING TO CHILDREN AND YOUNG PERSONS SINCE 1802, COMPLETE SO FAR AS REFERENCES IN OTHER ACTS SHOW.

1802.	42 Geo. III., c. 73	..	
1841.	4 & 5 Vic. c. 38	..	} School Sites Acts.
1844.	7 & 8 Vic. c. 37	..	
1849.	12 & 13 Vic. c. 49	..	
1851.	14 & 15 Vic. c. 24	..	
1867.	30 & 31 Vic. c. 146	..	Workshops.
1870.	33 & 34 Vic. c. 75	..	
1873.	36 & 37 Vic. c. 67	..	Agricultural children.
1873.	36 & 37 Vic. c. 86	..	
1874.	37 & 38 Vic. c. 90	..	Orders, repealed 1902.
1876.	39 & 40 Vic. c. 79	..	Education.
1880.	43 & 44 Vic. c. 23	..	Education.
1889.	52 & 53 Vic. c. 76	..	Technical Instruction, repealed 1902.
1890.	53 & 54 Vic.	..	Education code.
1891.	54 & 55 Vic. c. 56	..	Education.
1891.	54 & 55 Vic. c. 4	..	Technical Instruction, repealed 1902.
1893.	56 & 57 Vic. c. 42	..	Blind and Deaf children.
1897.	60 & 61 Vic. c. 5	..	Voluntary schools.
1897.	60 & 61 Vic. c. 16	..	Education, repealed 1902.
1897.	60 & 61 Vic. c. 57	..	Infant life protection, repealed 1908.
1899.	62 & 63 Vic. c. 32	..	Defective and epileptic.
1900.	63 & 64 Vic. c. 53	..	

1902.	2	Edw. VII., c. 42	..	Education.
1903.	3	Edw. VII., c. 45	..	Employment.
1904.	4	Edw. VII., c. 15	..	Cruelty.
1907.	7	Edw. VII., c. 43	..	Education administration.
1908.	8	Edw. VII., c. 67	..	Children Act.
1909.	9	Edw. VII., c. 29	..	Education (Administrative Provisions) Act.

I cannot pretend to give a complete survey of all these Acts, marking as they do the gradual awakening of the public conscience to the fact that child life is an enormous asset to the country, but may just mention that in 1802 the title of 42 *Geo. III. c. 73* was an Act for the "*preservation of the health and morals of apprentices and others employed in cotton and other mills and cotton and other factories*," repealed in 1878.

"That of 3 & 4 *Will. IV. c. 103* was *An Act to regulate the labour of children and young persons in the mills and factories of the United Kingdom*" (repealed in 1878), and from then up to 1870 some eleven other Acts were passed containing certain provisions on the subject which have all become obsolete either by actual repeal or by better substitutes.

In 1870 was passed the first general Public Education Act, viz., "33 & 34 *Vic. c. 75. An Act to provide for public Elementary Education in England and Wales. Aug. 9, 1870*," showing that by this time thought was being bestowed on the minds as well as the bodies of poor children. This Act like the others above has been superseded, if not repealed, by later Acts, just as by it were repealed the four School Sites Acts of 1841, 1844, 1849 and 1851.

In 1873 An amending Act to the 1870 Act was passed of no special medical interest, referring mainly to monetary provision.

In 1876 "39 & 40 *Vic. c. 79. An Act to make further provision for Elementary Education. Aug. 15, 1876*," was passed, from which we may extract a few points.

Section 5 (1), a child under ten may not be employed; nor (2) one over ten without a certificate of proficiency in reading, writing and elementary arithmetic.

Section 48. A child in this Act means a child between the ages of five and fourteen years.

I can find no reference to medical certificates in the Act, though I presume such must have been frequently required to excuse attendance.

In 1880 another Elementary Education Act was passed, and again in 1891 still one more, also one in 1897 (repealed in 1902), and yet another in 1900, none of which need be further alluded to

here, as they are of no special medical interest now owing to supersession in medical points by subsequent Acts. The last general Act dealing with education was passed in 1902 ; it gave rise to much heartburning from religious and other points of view but raised no medical controversy.

This brief sketch disposes of the more strictly non-medical aspects of children's legislation, we must now turn to those Acts and sections which are of more direct medical importance ; these we will deal with in chronological order, with headings recording the subject matter.

1878.

" 41 Vic. c. 16, *Factory and Workshops Act.*"

Definition of child and young person. Certificates of fitness, &c.

This we have dealt with on pp. 150 and 268, 269, *q.v.*

1893 and 1899.

Education of Defective Children.

" 56 & 57 Vic. c. 42. *An Act to make better provision for the Elementary Education of Blind and Deaf Children in England and Wales. Sep. 12, 1893*" (did not extend to Scotland and Ireland).

" 62 & 63 Vic. c. 32. *An Act to make better provision for the Elementary Education of Defective and Epileptic Children in England and Wales. Aug. 9, 1899.*"

These two Acts are assuredly ones in which the medical profession must take a deep interest ; moreover certificates of the state of the child are demanded from us.

" *In the former, sec. 15 (1) ' blind ' means too blind to be able to read the ordinary school books used by children, ' Deaf ' means too deaf to be taught in a class of hearing children in an elementary school, ' elementary education ' may include industrial training . . .*"

Sec. 11. Makes a blind or deaf boy or girl a child until the age of sixteen.

" *In the latter, Sec. I.—(1) A school authority . . . may with the approval of the Education Department, make such arrangements as they think fit for ascertaining—*

" (a) *What children in their district, not being imbecile, and not being merely dull or backward, are defective, that is to say, what children by reason of mental or physical defect are incapable of receiving proper benefit from instruction in the ordinary public elementary schools, but are not incapable by reason of such defects of receiving benefit from instruction*

in such special classes or schools as are in this Act mentioned; and

“(b) *What children in their district are epileptic children, that is to say, what children, not being idiots or imbeciles, are unfit by reason of severe epilepsy to attend the ordinary public elementary schools.*”

“(2) *The school authority, in making their arrangements under this section, shall provide facilities for enabling any parent, who is of opinion that his child ought to be dealt with under this Act, to present such child to the school authority to be examined, although he may not have been required so to do by that authority; and any school authority failing to provide such facilities shall be deemed to have acted in contravention of this Act.*

“(3) *For the purpose of ascertaining whether a child is defective or epileptic within the meaning of this section, a certificate to that effect by a duly qualified practitioner approved by the Education Department shall be required in each case. The certificate shall be in such form as may be prescribed by the Education Department.*”

This certificate by sec. 6 of the Education (Administration Provisions) Act, 1909 “*shall be sufficient evidence (in any legal proceedings) of the facts therein stated unless the parent or guardian . . . requires the medical practitioner to be called as a witness.*”

2.—(1) *Where a school authority have ascertained that there are in their district defective children, they may make provisions for the education of such children . . .*”

We are in these two Acts introduced to two practically new principles (1) That defect of the senses in a child shall be no excuse for not sending the child to an appropriate school; this is deliberately laid down by sec. 1 of the former Act, while sec. 2 empowers local authorities to provide suitable schools.

The second principle is that of compulsory medical inspection laid down by 1 (3) of the latter Act; the development of this principle we shall notice later (*vide* p. 160).

Prevention of Cruelty to Children.

In 1894 this subject was thought to require a special Act, “57 & 58 Vic. *The Prevention of Cruelty to Children Act, 1894*,” but this was entirely repealed, as was also “60 & 61 Vic. c. 57, *The Infant Life Protection Act, 1897*,” by “4 Edw. 7, c. 15. *An Act to amend the Law relating to the Prevention of Cruelty to Children.* Aug. 15, 1904.”

This I had determined to quote when, on comparing it with the Children Act of 1908, I discovered that as regards medical

details at all events it had been entirely repealed so that we are now left with

1908 as the date

and "8 Edw. 7, c. 67. *An Act to consolidate and amend the Law relating to the Protection of Children and Young Persons, Reformatory and Industrial Schools and Juvenile offenders, and otherwise to amend the Law with respect to Children and Young Persons.* Dec. 21, 1908." as the last word of legislation.

This is a long Act consisting of 134 sections the great majority of which have no greater interest for medical men than they have for other citizens, but a few of them concern medical men directly.

"Sec. 131. *For the purposes of this Act 'child' means a person under the age of fourteen.*

"*Young Person means a person who is fourteen years of age and upwards and under the age of sixteen.*"

"Sec. 1—(1) *Where a person undertakes for reward the nursing and maintenance of one or more infants under the age of seven years, apart from their parents or having no parents he shall within forty-eight hours from the reception of any such infant give notice in writing thereof to the local authority ;*

"*Provided that this section shall not apply as respects any infant where the period for which it is received is forty-eight hours or less.*"

This section was and is directly aimed at baby farmers of the worst type, but medical men are from the nature of their profession not unfrequently engaged to take care of young children (from India, e.g., or other colony or elsewhere abroad) and it is well to remind such that they apparently come under and must carefully study this Act when they accept such children. Relatives are excluded by sec. 11 (1).

The provision at the end of the section is a mischievous one well known to baby farmers, one at least of which of the very worst type had the impudence to plead in extenuation of her crime, that the police were on her track before the forty-eight hours was up—unsuccessfully, thank God.

"Sec. 2.—(1) *It shall be the duty of every local authority to provide for the execution of this part of the Act within their district.*"

(2) The local authority shall appoint "*infant protection*" visitors or persons with the powers of visitors.

"(4) *A local authority may exempt from being visited . . . any particular premises . . . which appear to them to be so conducted that it is unnecessary that they should be visited.*"

Probably a Doctor's house would be readily exempted, but let him take care to apply for exemption.

Sec. 7. Provides very wisely that the keepers of such infants have no insurable interest in them and cannot therefore insure them, thus one of the most crying scandals of the day has been made to disappear, or has at least been scotched, for these poor little mites were, not unfrequently, done to death for the sake of the insurance money.

"Sec. 12.—(1) *If any person over the age of 16 who has the custody, charge, or care of any child or young person wilfully assaults, ill treats, neglects . . . such child or young person . . . in a manner likely to cause . . . unnecessary suffering or injury to health (including injury to or loss of sight or hearing . . . and any mental derangement) that person shall be guilty of a misdemeanour . . . and for the purposes of this section a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if he fails to provide adequate food, clothing, medical aid . . . or fails to take steps to procure the same*" (if too poor himself to provide them).

(2) He may still be proceeded against "*notwithstanding that actual suffering or injury to health was obviated by the action of another person.*"

"(3) *Also notwithstanding the death of the child.*"

"(5) Makes direct or indirect interest known or provable *in any sum of money accruable or payable in the event of the death of the child or young person,*" a most serious aggravation of the offence, to increase the fine or to allow of penal servitude for the offence.

(8) An offence under this section is technically cruelty.

Obviously the interest of medical practitioners in this section is paramount and overwhelming, for upon them must devolve to a large extent the proof of injury from neglect. In the ordinary meaning of the words such proof is not difficult, with regard, I mean, to physical violence, starvation, &c., but with regard to injury arising from the neglect to provide "*adequate medical aid*" it is frequently difficult to prove the difference made in the course of an illness perhaps ending fatally, by the absence of "*legally qualified*" assistance or by the delay in calling in such assistance supposing it is ultimately called in. The courts are luckily leaning more and more strongly in the direction of considering such blatant forms of Quackery as Christian Science as "*cruelty,*" but between this and "*duly qualified*" assistance there are many grades of ignorant and indifferent assistance in which the degree of guilt is not so easy of determination; for a full discussion with cases we must again refer the reader to Taylor, Vol. I., under the heading of Quackery.

"Sec. 13. Where it is proved that the death of an infant under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the infant) whilst the infant was in bed with some other person over sixteen years of age, and that that other person was at the time of going to bed under the influence of drink, that other person shall be deemed to have neglected the infant in a manner likely to cause injury to its health within the meaning of this part of this Act."

This clause should tend to diminish the number of cases of overlaying but coroners' records still show an appalling number of such. It is difficult to see how they could be entirely stopped unless the law made it an offence for babies to sleep with their mothers in the same bed, an obviously impossible position to take up.

Sec. 14 makes street begging by children and young persons an offence on the part of those who allow or cause them to beg.

"Sec. 15. If any person over the age of sixteen years who has the custody charge or care of any child under the age of seven years allows that child to be in any room containing an open fire-grate not sufficiently protected to guard against the risk of the child being burnt or scalded, without taking reasonable precautions against that risk, and by reason thereof the child is killed or suffers serious injury, he shall on summary conviction be liable to a fine not exceeding ten pounds."

A clause inserted in the endeavour to prevent the dreadful number of deaths from burning. The wearing of flannelette contributes in no small degree to the danger.

Secs. 16, 17 and 18 refer to living in brothels, to prostitution and exposure to the risks of such ; very important police sections but not of so much direct interest to medical men unless a charge of rape be brought to them for investigation (*vide* p. 317).

Sec. 26 may be referred to in connection with the legislation dealing with Habitual Drunkards on p. 194, for it makes "cruelty" within the meaning of this Act an offence for which an habitual drunkard may be detained in a retreat.

"Sec. 28.—(1) Where a justice of the peace is satisfied by the evidence of a duly qualified practitioner that the attendance before a court of any child or young person . . . would involve serious danger to the life or health of a child or young person, the justice may take the depositions of the child or young person," and by sec. 29 such depositions shall be admissible in evidence either for or against the accused person without further proof . . ."

I can find no provision in the bill for paying such a duly qualified practitioner, but neither can I find any case in which

trouble has arisen over such fee, so I presume the "duly qualified practitioner" is usually a medical officer of some establishment or a police surgeon, within whose official duty the giving of the required evidence comes, or else that the justice of the peace always makes provision for the fee.

Sec. 30 permits a court to accept the evidence of a child though not given on oath if the court is of opinion "*that the child is possessed of sufficient intelligence.*"

"Sec. 37. *Nothing in this part of this Act shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child or young person to administer punishment to such child or young person.*"

This section is of considerable medical interest because evidence not infrequently has to be given by medical men as to the severity of punishment thus administered and occasionally as to its relation to a fatal illness. I cannot here discuss the question of judging the severity of punishment by the bruises produced nor that of the relation to blows on the head and tubercular meningitis, &c., but must refer the reader to Taylor, Vol. I.

Part III. of the Act relating to juvenile smoking, occupying secs. 39 to 43, are very ill adapted to the prevention of smoking by children; the Act tried to stop them doing so but very ineffectually, and probably even the attempt was ill advised in view of the known qualities of boy nature. They are too futile to deserve quotation here, whatever medical opinion may be on the evil effects of juvenile smoking.

Part IV. : Secs. 44 to 93 deal with Reformatory and Industrial Schools and their regulations; such institutions are excellent in idea and must receive the approbation of medical men and eugenists, but we cannot quote any of the sections except one below as they have no special bearing on medical practice.

"Sec. 62.—(2) *Where a court is satisfied that a youthful offender or child is by reason of mental or physical defect incapable of receiving proper benefit from industrial training . . .*"

Presumably such satisfaction must be obtained from a prison medical officer or medical officer attached to a reformatory or industrial school.

"Sec. 119. *If any person gives or causes to be given to any child under the age of five any intoxicating liquor except upon the order of a duly qualified medical practitioner, or in case of sickness or apprehended sickness or other urgent cause, he shall on summary conviction be liable to a fine not exceeding three pounds.*"

Places power in the hands of a doctor which should not be lightly abused even in convalescence from illness.

Sec. 120, which forbids the holder of a liquor licence to allow a child to be in the bar, was conceived in the interests of child life, but according to the testimony of a large number of medical men and others has had anything but the desired effect, for now the children are left outside exposed to the weather while the parents are inside drinking.

“ Sec. 121.—(1) runs :—*Where an entertainment for children or any entertainment at which the majority of the persons attending are children is provided and the number of children who attend the entertainment exceeds 100, and access to any part of the building in which the children are accommodated is by stairs it shall be the duty of the person who provides the entertainment to station and keep stationed wherever necessary, a sufficient number of adult attendants . . . and to take all other reasonable precautions for the safety of the children.*”

It is worth quoting inasmuch as country practitioners are especially liable to be placed in charge of, if they do not provide, such children's entertainments.

“ Sec. 122.—(1) *A local education authority may direct their medical officer, or any person provided with and, if required, exhibiting the authority in writing of their medical officer, to examine in any public elementary school provided or maintained by the authority the person and clothing of any child attending the school and, if on examination the medical officer or any such authorised person as aforesaid is of opinion that the person or clothing of any such child is infected with vermin, or is in a foul or filthy condition, the local education authority may give notice in writing to the parent or guardian of, or other person liable to maintain, the child requiring him to cleanse properly the person and clothing of the child within 24 hours after the receipt of the notice.*

“ (2) *If the person to whom any such notice as aforesaid is given fails to comply therewith within such 24 hours, the medical officer, or some person provided with, and if required exhibiting the authority in writing of the medical officer may remove the child referred to in the notice from any such school, and may cause the person and clothing of the child to be properly cleansed in suitable premises and with suitable appliances, and may, if necessary for that purpose, without any warrant other than this section, convey to such premises and there detain the child until the cleansing is effected.*

“ (3) *Where any sanitary authority within the district of a local education authority have provided, or are entitled to the use of, any premises or appliances for cleansing the person or clothing of persons infested with vermin, the sanitary authority shall, if so required by the local education authority, allow the local education authority to*

use such premises and appliances for the purpose of this section upon such payment (if any) as may be agreed between them, or, in default of agreement, settled by the Local Government Board.

“(4) Where, after the person or clothing of a child has been cleansed by a local education authority under this section, the parent or guardian of, or other person liable to maintain the child allows him to get into such a condition that it is again necessary to proceed under this section, the parent, guardian, or other person shall, on summary conviction, be liable to a fine not exceeding ten shillings.

“(5) Where a local education authority give notice under this section to the parent or guardian of, or other person liable to maintain, a child, requiring him to cleanse the person and clothing of the child, the authority shall also furnish him with written instructions describing the manner in which the cleansing may best be effected.

“(6) The examination and cleansing of girls under this section shall only be effected by a duly qualified medical practitioner or by a woman duly authorised as herein-before provided.

“(7) For the purposes of this section ‘medical officer’ means any officer appointed for the purpose of section thirteen of the Education (Administrative Provisions) Act, 1907.”

This section of the 1908 Act seems to be the first step in actual compulsion in the treatment of school children after the 1907 Act (*vide* below) which enjoins inspection.

Sec. 123 concerns itself with the apparent, *versus* the real, proved age of a child or young person in settling which it is not at all improbable that provision may be made for the evidence of medical men to be taken. Whether the x-ray revelations regarding centres of ossification and union of epiphyses will ever be required seems uncertain.

Inspection of School Children.

I have in the introductory remarks dealt quite sufficiently with education in ordinary, but

“Education (Administrative Provisions) Act, 1907

“7 Edw. 7, c. 43. An Act to make provision for the better administration by Central and Local Authorities in England and Wales of the enactments relating to education. Aug. 28, 1907,” must be especially dealt with because in it we get a further step in the development of the idea (p. 153) of medical supervision over children. Inspection is made compulsory and power given for treatment;—where the development of this is going to end it would be rash indeed to speculate.

Sec. 13 runs as follows :—

13.—(1) The powers and duties of a local education authority under Part III. of the Education Act, 1902, shall include—

(a) Power to provide recreation centres, &c.

(b) “ *The duty to provide for the medical inspection of children immediately before or at the time of or as soon as possible after their admission to a public elementary school, and on such other occasions as the Board of Education direct, and the power to make such other arrangements as may be sanctioned by the Board of Education for attending to the health and physical condition of the children educated in public elementary schools.*”

Since the promulgation and operation of this section (January, 1908) great controversy has raged over the best methods of carrying out the duty—school clinics with special officers, hospital attendance in batches, or reference to private practitioners,—each method has its band of upholders and even now in 1912 the matter is not finally settled, but this is not the appropriate work wherein to discuss the merits and demerits of the various plans. Time alone can show which method is the best and probably each will be found to suit special areas.

The words of the section “ attending to the health and physical condition of the children ” has quite naturally developed into the treatment of what is found on inspection, and certainly fresh legislation on the question of treatment is imperatively demanded to settle finally the terms both to parents and doctors upon which such treatment is to be given, and also the official mechanism for controlling the whole scheme.

Employment of Children Act.

“ 3 Edw. 7, c. 45. *An Act to make better provision for regulating the Employment of Children.* Aug. 14, 1903.”

We cannot pass the 1903 Act by without mention because it supplements the Factory Acts in some ways; moreover, a medical practitioner may actually be a member of a local authority and even if there be no medical member medical advice must frequently be required in individual cases and in framing bye-laws.

“ Sec. 13. *In this Act the expression ‘ child ’ means a person under 14.*”

Sec. 1 runs :—

“ 1. *Any local authority may make bye-laws—*

“ (i.) *Prescribing for all children, or for boys and girls separately, and with respect to all occupations, or to any specified occupation—*

- “ (a) *The age below which employment is illegal ; and*
- “ (b) *The hours between which employment is illegal ; and*
- “ (c) *The number of daily and weekly hours beyond which employment is illegal.*

“ (ii.) *Prohibiting absolutely or permitting, subject to conditions, the employment of children in any specified occupation.*

“ *Sec. 2. Any local authority may make bye-laws with respect to street trading by persons under the age of sixteen, and may by such bye-laws:*

(a) *Prohibit such street trading, except subject to such conditions as to age, sex, or otherwise, as may be specified in the bye-law, or subject to the holding of a licence to trade to be granted by the local authority ;*

“ (b) *Regulate the conditions on which such licences may be granted, suspended, and revoked ;*

“ (e) *Regulate generally the conduct of such street traders.*

“ *Sec. 3. (1) A child shall not be employed between the hours of nine in the evening and six in the morning. Provided that any local authority may by bye-laws vary these hours either generally or for any specified occupation.*

“ (2) *A child under the age of eleven years shall not be employed in street trading.*

“ (3) *No child who is employed half-time under the Factory and Workshop Act, 1901, shall be employed in any other occupation.*

“ (4) *A child shall not be employed to lift, carry, or move anything so heavy as to be likely to cause injury to the child.*

“ (5) *A child shall not be employed in any occupation likely to be injurious to his life, limb, health, or education, regard being had to his physical condition.*

“ (6) *If the local authority send to the employer of any child a certificate signed by a registered medical practitioner that the lifting, carrying, or moving of any specified weight is likely to cause injury to the child, or that any specified occupation is likely to be injurious to the life, limb, health, or education of the child, the certificate shall be admissible as evidence in any subsequent proceedings against the employer in respect of the employment of the child.”*

No comment is necessary on these sections.

CHAPTER VIII

ACTS RELATING TO LUNACY : IMBECILES AND IDIOTS : HABITUAL DRUNKARDS.

I HAVE compiled the following lists from the Acts in my possession; it is quite probable that they are somewhat incomplete but serve all the same some purposes of mere reference.

LIST OF LUNACY ACTS.

4 & 5 Will. IV., c. 76	..	One section.	
8 & 9 Vict. c. 100	..	..	
13 & 14 Vict. c. 60	..	..	A few sections relating to the property.
15 & 16 Vict. c. 48	..	..	Relates to the property.
15 & 16 Vict. c. 55	..	..	A few sections.
16 & 17 Vict. c. 70	..	..	
16 & 17 Vict. c. 96	..	..	
16 & 17 Vict. c. 97	..	..	Refers to asylums.
18 Vict. c. 13	..	..	
18 Vict. c. 105	..	..	
19 & 20 Vict. c. 87	..	..	
23 & 24 Vict. c. 127	..	..	One section only.
24 & 25 Vict. c. 55	..	..	One section only.
25 & 26 Vict. c. 96	..	..	
25 & 26 Vict. c. 111	..	..	
26 & 27 Vict. c. 110	..	..	
28 & 29 Vict. c. 80	..	..	
30 Vict. c. 6	..	..	One section.
30 & 31 Vict. c. 87	..	..	
30 & 31 Vict. c. 106	..	..	Referring to property and responsibility for care of lunatics.
31 & 32 Vict. c. 22	..	..	
34 & 35 Vict. c. 14	..	..	
38 & 39 Vict. c. 77	..	..	Referring to property.
45 & 46 Vict. c. 82	..	..	
48 & 49 Vict. c. 52	..	..	Repealed totally.
51 & 52 Vict. c. 41	..	..	One or two sections.
52 & 53 Vict. c. 41	..	..	Totally repealed.
54 & 55 Vict. c. 65	..	..	Noted incidentally below, p. 169.
8 Edw. VII., c. 47	..	..	Of no medical interest.

CRIMINAL LUNATICS.

3 & 4 Vict. c. 54	..	..	Repealed.
6 & 7 Vict. c. 26	..	..	Repealed.
8 & 9 Vict. c. 107	..	..	Irish criminal lunatics.
14 & 15 Vict. c. 81	..	..	Removal from India.
23 & 24 Vict. c. 75	..	..	Criminal asylums.
25 & 26 Vict. c. 54	..	..	The Lunacy (Scotland) Act.

CRIMINAL LUNATICS—*continued.*

27 & 28 Vict. c. 29 ..	..	Repealed.
30 & 31 Vict. c. 62 ..	..	} Repealed.
32 & 33 Vict. c. 78 ..	..	
46 & 47 Vict. c. 38 ..	..	Treatment of lunatics.
47 & 48 Vict. c. 64 ..	..	Noted below, p. 188.

IMBECILES AND IDIOTS.

49 & 50 Vict. c. 25 ..	..	<i>Vide</i> below, p. 191.
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HABITUAL DRUNKARDS.

42 & 43 Vict. c. 19 ..	..	Noted below, <i>vide</i> p. 194
51 & 52 Vict. c. 19 ..	..	<i>Vide</i> below, p. 194.
61 & 62 Vict. c. 60 ..	..	
62 & 63 Vict. c. 35 ..	..	<i>Vide</i> below, and p. 152.
63 & 64 Vict. c. 28 ..	..	A special application to Scotland, <i>vide</i> p. 195.

FOR IRELAND.

1 & 2 Geo. IV.		
Private Lunatic Asylums (Ireland) Act, 1842 and 1874.		
8 & 9 Vict. c. 107. 1845.		
30 & 31 Vict. c. 118.		

SECTION I.—(A) ORDINARY LUNACY.

Modern legislation regarding the care of the person and property of lunatics would appear to date from 1845 in which year was passed "8 & 9 Vic. c. 100. *An Act for the regulation of the care and treatment of lunatics.*"

Between this date and 1890 some fourteen other Acts were passed directly dealing with the subject, but as they were all repealed by the Act of 1890 there is no necessity to mention them by name, except "47 & 48 Vic. c. 64. *An Act to consolidate and amend the Law relating to Criminal Lunatics. Aug. 14, 1884,*" which itself repealed some three Acts on the subject. It is not of much medical importance but will be found noted on p. 188.

In 1890 was passed :—

"53 Vic. c. 5. *An Act to consolidate certain of the enactments respecting Lunatics. Mar. 29, 1890,*" which for all practical purposes represents the present law on the subject.

"54 & 55 Vic. c. 65. *An Act to amend the Lunacy Act, 1890. Aug. 5, 1891.*" This contains very little of medical interest, but a note on it appears on p. 169.

"62 & 63 Vic. c. 32. *An Act to make better provision for the elementary education of defective and epileptic children in England and Wales. Aug. 9, 1899*" (*vide* p. 152).

"8 Edw. 7, c. 47. *An Act to amend the Lunacy Acts, 1890 and 1891. Dec. 21, 1908.*" Of considerable importance to persons

who have been suspected but not convicted of lunacy, but of no medical importance and not further noticed.

53 *Vic. c. 5, or the Lunacy Act, 1890.*

Inasmuch as lunacy is now recognised as a disease and not a crime, practically the whole Act has more or less of a special interest for all medical men, and indeed it is absolutely imperative that the Act must be in the possession of, and carefully studied by, all those medical men who are officers in Asylums, officers under the Lunacy Law, or who receive one or more lunatics under their care. There are, however, frequent occasions upon which a medical practitioner in his ordinary work comes in contact with problems connected with lunacy, and for him chiefly the following sections are quoted to enable him to deal with such problems without putting himself in the wrong.

RECEPTION ORDERS.

"Sec. 4.—(1) Subject to the exceptions in this Act mentioned a person not being a pauper or a lunatic so found by inquisition shall not be received and detained as a lunatic in an institution for lunatics or as a single patient unless under a reception order made by a judicial authority."

One exception is when the reception order is signed by the committee of the person (sec. 12), but it then must have annexed to it an office copy of the order appointing the committee; indeed, this is not really an exception to the section itself, for with a committee of the person the patient is a lunatic so found by inquisition or its equivalent under sec. 116 of the Act, but only to the fact that the order is not signed by a judicial authority.

A second exception is an order signed by two commissioners (sec. 23).

A third is an urgency order (sec. 11).

A fourth is an order signed by a Master in Lunacy (sec. 12 and sec. 116).

"Sec. 4.—(2) The order shall be obtained upon a private application by petition accompanied by a statement of particulars and by two medical certificates on separate sheets of paper."

"Sec. 5.—(1) The petition shall be presented if possible by the husband or wife or by a relative of the alleged lunatic."

If not so presented reasons and explanations must be given.

(2) Petitioner must be twenty-one years of age and have seen the alleged lunatic within fourteen days.

(3) Petitioner must guarantee visiting the lunatic personally or by agent every six months at least.

Sec. 6 deals with the action of the judicial authority upon receiving a petition; it need not be quoted except to say that the judicial authority, and all present at the inquiry, are sworn to secrecy, and also that he may give an order without seeing the alleged lunatic.

"Sec. 8.—(1) *When a lunatic has been received as a private patient under an order [but has not been seen personally by the judicial authority who signed the order] the patient shall have the right to be taken before or visited by a judicial authority other than the judicial authority who made the order, unless the medical officer of the institution, or his medical attendant states in writing to the Commissioners that the exercise of such right would be prejudicial to the patient.*"

(2) He must have notice in writing of this right within twenty-four hours after reception and his wishes ascertained.

URGENCY ORDERS.

"Sec. 11.—(1) *In cases of urgency where it is expedient either for the welfare of a person (not a pauper) alleged to be a lunatic, or for the public safety, that the alleged lunatic should be forthwith placed under care and treatment he may be received and detained in an institution for lunatics or as a single patient upon an urgency order made (if possible) by the husband or wife or by a relative of the alleged lunatic, accompanied by one medical certificate.*"

(3) If not signed by husband or wife or relative the order shall contain a statement of the reasons why not so signed.

(4) Signer must be twenty-one years of age and have personally seen the alleged lunatic within two days of signing the order.

"6. *An urgency order shall remain in force for seven days from its date or if a petition . . . is pending then until the petition is disposed of.*"

N.B.—An urgency order is the only reception order not signed by a judicial authority: the urgency is the obvious reason for the exception to the rule.

SUMMARY RECEPTION ORDERS.

These refer to people, not paupers, and not wandering at large, but who are reported to a judicial authority as not under proper care and control, or cruelly treated or neglected by those in charge of them.

"Sec. 13.—(2) *Any such justice upon the information on oath of any person whomsoever, that a person within the limits of his jurisdiction, not a pauper and not wandering at large, is deemed to be a lunatic and is not under proper care and control, or is cruelly*

treated or neglected as aforesaid, may himself visit the alleged lunatic, and shall, whether making such visit or not, direct and authorise any two medical practitioners whom he thinks fit to visit and examine the alleged lunatic and to certify their opinion as to his mental state, and the justice shall proceed in the same manner so far as possible, and have as to the alleged lunatic the same powers, as if a petition for a reception order had been presented by the person by whom the information with regard to the alleged lunatic has been sworn.

" (3) If upon the certificates of the medical practitioners who examine the alleged lunatic, or after such other and further inquiry as the justice thinks necessary, he is satisfied that the alleged lunatic is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, the justice may, by order direct the lunatic to be received and detained in any institution for lunatics to which, if a pauper, he might be sent under this Act, and the constable, relieving officer, or overseer upon whose information the order has been made, or any constable whom the justice may require so to do, shall forthwith convey the lunatic to the institution named in the order."

" Sec. 14.—(1) Every medical officer of a union who has knowledge that a pauper resident within the district of the officer is or is deemed to be a lunatic and a proper person to be sent to an asylum, shall, within three days after obtaining such knowledge, give notice thereof in writing to the relieving officer of the district, or, if there is no such officer, to an overseer of the parish where the pauper resides.

" (2) Every relieving officer and every overseer of a parish of which there is no relieving officer, who respectively have knowledge, either by notice from a medical officer or otherwise, that any pauper resident within the district or parish of the relieving officer or overseer is deemed to be a lunatic, shall, within three days after obtaining such knowledge, give notice thereof to a justice having jurisdiction in the place where the pauper resides.

" Sec. 16. The justice before whom a pauper alleged to be a lunatic or an alleged lunatic wandering at large is brought under this Act shall call in a medical practitioner, and shall examine the alleged lunatic, and make such inquiries as he thinks advisable, and if upon such examination or other proof the justice is satisfied in the first-mentioned case that the alleged lunatic is a lunatic and a proper person to be detained, and, in the secondly-mentioned case, that the alleged lunatic is a lunatic, and was wandering at large, and is a proper person to be detained, and if in each of the foregoing cases the medical practitioner who has been called in signs a medical

certificate with regard to the lunatic, the justice may by order direct the lunatic to be received and detained in the institution for lunatics named in the order, and the relieving officer, overseer, or constable who brought the lunatic before the justice, or in the case of a lunatic wandering at large, any constable who may by the justice be required so to do, shall forthwith convey the lunatic to such institution.

"Sec. 17.—(2) If a medical practitioner who examines a lunatic as to whom a summary reception order has been made, certifies in writing that the lunatic is not in a fit state to be removed, the removal shall be suspended until the same or some other medical practitioner certifies in writing that the lunatic is fit to be removed, and every medical practitioner who has certified that the lunatic is not in a fit state to be removed shall, as soon as in his judgment the lunatic is in a fit state to be removed, be bound to certify accordingly."

RECEPTION ORDER BY TWO COMMISSIONERS.

"Sec. 23.—(1) Any two or more Commissioners may visit a pauper lunatic or alleged lunatic not in an institution for lunatics, or workhouse, and may, if they think fit, call in a medical practitioner.

"(2) If the medical practitioner signs a medical certificate with regard to the lunatic, and the Commissioners are satisfied that the pauper is a lunatic, and a proper person to be detained, they may by order direct the lunatic to be received in an institution for lunatics, and the relieving officer of the district or any constable who may by them be required so to do shall forthwith convey the lunatic to such institution."

LUNATICS IN WORKHOUSES.

"Sec. 24.—(1) Except in the cases mentioned in this Act, no person shall be allowed to remain in a workhouse as a lunatic unless the medical officer of the workhouse certifies in writing—

"(a) that such person is a lunatic, with the grounds for the opinion ; and

"(b) that he is a proper person to be allowed to remain in a workhouse as a lunatic ; and

"(c) that the accommodation in the workhouse is sufficient for his proper care and treatment, separate from the inmates of the workhouse not lunatics, unless the medical officer certifies that the lunatic's condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate.

"(2) A certificate under this section shall be sufficient authority for detaining the lunatic therein named against his will in the workhouse for fourteen days from its date.

" (3) No lunatic shall be detained against his will or allowed to remain in a workhouse for more than fourteen days from the date of a certificate under this section without an order under the hand of a justice having jurisdiction in the place where the workhouse is situate.

" (4) The order in the last preceding sub-section mentioned may be made upon the application of a relieving officer of the union to which the workhouse belongs, supported by a medical certificate under the hand of a medical practitioner, not being an officer of the workhouse, and by the certificate under the hand of the medical officer of the workhouse herein-before mentioned.

" (5) The guardians of the union to which the workhouse belongs shall pay such reasonable remuneration as they think fit to the medical practitioner who, not being an officer of the workhouse, examines a person for the purpose of a certificate under this section.

" (6) If, in the case of a lunatic being in a workhouse, the medical officer thereof does not sign such certificate as in sub-section one of this section mentioned, or if at or before the expiration of fourteen days from the date of the certificate an order is not made under the hand of a justice for the detention of the lunatic in the workhouse, or, if after such an order has been made, the lunatic ceases to be a proper person to be detained in a workhouse, the medical officer of the workhouse shall forthwith give notice in writing to a relieving officer of the union to which the workhouse belongs that a pauper in the workhouse is a lunatic and a proper person to be sent to an asylum, and thereupon the like proceedings shall be taken by the relieving officer and all other persons for the purpose of removing the lunatic to an asylum, and within the same time, as by this Act provided in the case of a pauper deemed to be a lunatic and a proper person to be sent to an asylum, and, pending such proceedings, the lunatic may be detained in the workhouse.

" Sec. 25. Where a pauper lunatic is discharged from an institution for lunatics, and the medical officer of the institution is of opinion that the lunatic has not recovered and is a proper person to be kept in a workhouse as a lunatic, the medical officer shall certify such opinion, and the lunatic may thereupon be received and detained against his will in a workhouse without further order if the medical officer of the workhouse certifies in writing that the accommodation in the workhouse is sufficient for the lunatic's proper care and treatment, separate from the inmates of the workhouse not lunatics, or that the lunatic's condition is such that it is not necessary for the convenience of the lunatic, or of the other inmates, that he should be kept separate."

These sections dealing with reception orders are not of much

interest to the average general practitioner but only to that limited number of medical men who are officers in asylums, &c., or who keep a house licensed for the reception of one or more lunatics, and to them we can only state that the matter requiring their attention is to see that the order is strictly in order and that all the formalities have been strictly complied with. The Act of 1891 by sec. 6 requires that the medical certificates shall be actually *attached* to any order under sec. 24 (above), a formality doubtless introduced to prevent confusion or loss of papers where large numbers of orders are being dealt with, but one that must, all the same, be rigidly enforced.

REQUIREMENTS OF RECEPTION ORDERS AND MEDICAL CERTIFICATES.

“ Sec. 28.—(1) *Every medical certificate under this Act shall be made and signed by a medical practitioner.*

“ (2) *Every medical certificate upon which a reception order is founded shall state the facts upon which the certifying medical practitioner has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others [this is done by the printed forms for certificates] and a reception order shall not be made upon a certificate formed only upon facts communicated by others.*

“ (3) *The medical certificate accompanying an urgency order shall contain a statement that it is expedient for the welfare of the alleged lunatic or for the public safety that he should be forthwith placed under care and treatment with the reasons for such statement [in other words, the medical certificate is the measure of the urgency].*

“ (4) *Every medical certificate made under and for purposes of this Act shall be evidence of the facts therein appearing and of the judgment therein stated . . . as if the matters therein appearing had been verified on oath*” [in other words, an action for perjury would lie.]

“ Sec. 29.—(1) *A reception order shall not be made unless the medical practitioner who signs the medical certificate, or where two certificates are required, each medical practitioner who signs a certificate, has personally examined the alleged lunatic in the case of an order upon petition not more than seven clear days before the date of the presentation of the petition, and in all other cases not more than seven clear days before the date of the order.*

“ (2) *Where two medical certificates are required, a reception order shall not be made unless each medical practitioner signing a certificate has examined the alleged lunatic separately from the other.*

" (3) *In the case of an urgency order, the lunatic shall not be received under the order unless it appears by the medical certificate accompanying the order that the certifying medical practitioner has personally examined the alleged lunatic not more than two clear days before his reception.*

" *Sec. 30. A medical certificate on petition or urgency shall not be signed by the petitioner or person signing the urgency order or by the husband or wife, father, or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of such petitioner or person.*

" *Sec. 31. One of the medical certificates accompanying a petition, . . . shall, whenever practicable, be under the hand of the usual medical attendant, if any, of the alleged lunatic* " [or good reason stated why not.]

" *Sec. 32.—(1) No person shall be received or detained as a lunatic in any institution for lunatics or as a single patient, where any certificate . . . has been signed by any of the following :—*

" (a) *The manager of the institution or the person who is to have charge of the single patient ;*

" (b) *Any person interested in the payments on account of the patient.*

" (c) *Any regular medical attendant in the institution ;*

" (d) *the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner or assistant of any of the foregoing persons.*

" (2) *Neither of the persons signing the medical certificates* ' when two are required, shall be the relation of the other, [in (1) (d)].

Sec. 34. Provides for amending certificates for incorrectness or defects.

" *Sec. 35.—(1) A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorised by him, or in the case of an order not made upon petition for the person authorised so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order.*

" (2) *In the case of a reception order made upon petition the order, together with the petition, statement of particulars, and medical certificates upon which the order was made, shall be delivered or*

sent by post to the person on whose petition the order was made, and shall by him or his agent be delivered to the manager of the institution for lunatics in which, or to the person by whom the lunatic is to be received.

“ *Sec. 36.—(1)* Where a reception order has been made, and the execution of the order has been suspended, or the lunatic named in the order has been temporarily taken to a workhouse under the provisions of this Act, he may be received in the institution for lunatics named in the order at any time within fourteen days after the date of the reception order.

“ (2) If the removal of the lunatic has been suspended by reason of a medical certificate that the lunatic is not in a fit state for removal, the lunatic may be received in the institution for lunatics named in the order within three days after the date of a medical certificate that the lunatic is in a fit state to be removed.

“ (3) In all other cases a reception order shall cease to be of any force unless the lunatic has been received thereunder before the expiration of seven clear days from its date.

“ *Sec. 37.—(1)* An order for the reception of a patient as a pauper shall extend to authorise his detention though it may afterwards appear that he is entitled to be classified as a private patient, and an order required for the reception of a private patient shall authorise his detention although it may afterwards appear that he ought to be classified as a pauper patient.

“ (2) If a patient is removed temporarily under the provisions of this Act from the place in which he is confined, or is transferred from one place of confinement to another, the original order and certificate or certificates upon which he was received shall remain in force.”

DURATION OF RECEPTION ORDERS.

“ *Sec. 38.—(1)* Every reception order dated after or within three months before the commencement of this Act, shall expire at the end of one year from its date, and any such order dated three months or more before the commencement of this Act shall expire at the end of one year after the commencement of this Act unless such orders respectively are continued as herein-after provided.

“ (2) In the case of any institution for lunatics the Commissioners may by order under their seal direct that the reception orders of patients detained therein shall, unless continued as herein-after provided, expire on any quarterly day next after the days on which the orders would expire under the last preceding subsection.

“ (3) An order for the removal of a patient from one custody to another shall not be deemed to be a reception order within this section,

but the patient who is removed shall after removal be deemed to be detained under the original reception order as a lunatic, and such order shall expire in accordance with the provisions of this section unless continued as herein-after provided.

“(4) A reception order shall remain in force for a year after the date by this Act or by an order of the Commissioners appointed for it to expire, and thereafter for two years and thereafter for three years, and after the end of such periods of one, two, and three years for successive periods of five years, if not more than one month nor less than seven days before the expiration of the period at the end of which, as fixed by this Act, or by an order of the Commissioners under subsection two, the order would expire, and of each subsequent period of one, two, three, and five years respectively a special report of the medical officer of the institution or of the medical attendant of the single patient as to the mental and bodily condition of the patient with a certificate under his hand certifying that the patient is still of unsound mind and a proper person to be detained under care and treatment is sent to the Commissioners in manner herein-after directed. Such report shall be sent to the Commissioners not more than one month and not less than seven days before the end of each period.

“(5) The person sending the special report shall give to the Commissioners such further information concerning the patient to whom the special report relates as they require.

“(6) If in the opinion of the Commissioners the special report does not justify the accompanying certificate, then—

“(a) In the case of a patient in a hospital or licensed house or under care as a single patient, the Commissioners shall make further inquiry, and if dissatisfied with the result they or any two of them may by order direct his discharge :

“(b) In the case of a patient in an asylum, the Commissioners shall send a copy of the report, with any other information in their possession relating to the case, to the clerk to the visiting committee of the asylum, and the committee, or any three of them, shall thereupon investigate the case and may discharge the patient or give such directions respecting him as they may think proper.

“(7) The manager of any institution for lunatics, and any person, having charge of a single patient, who detains a patient after he has knowledge that the order for his reception has expired, shall be guilty of a misdemeanour.

“(8) The special reports and certificates under this section may include and refer to more than one patient.

“(9) A certificate under the hand of the secretary to the Commis-

sioners that an order for reception has been continued to the date therein mentioned shall be sufficient evidence of the fact.

“(10) This section shall not apply to lunatics so found by inquisition.”

These sections dealing with the requirements of reception orders and of medical certificates are the ones above all others which interest the general practitioner.

For a full discussion on the whole position, *i.e.*, whether any given person should be certified or not, we must refer the reader to “Taylor’s Medical Jurisprudence,” Vol. I., pp. 826 *et seq.*, p. 837, and p. 905; here we can only say, be very careful to fulfil the above sections down to the minutest particular if you determine to fill up a certificate at all, but we advise every practitioner to avoid certifying whenever he possibly can, for lunatics on recovery are notoriously vindictive, and the law gives but little protection to medical men against legal proceedings taken by “recovered” patients, which are to say the least vexatious and expensive.

The protection, such as it is, comes under the following sections:—

“Sec. 330.—(1) A person who after the passing of this Act presents a petition for any reception order, or signs or carries out or does any act with a view to sign or carry out an order purporting to be a reception order, or any report or certificate purporting to be a report or certificate under this Act, or does anything in pursuance of this Act, shall not be liable to any civil or criminal proceedings whether on the ground of want of jurisdiction or on any other ground if such person has acted in good faith and with reasonable care.

“(2) If any proceedings are taken against any person for signing or carrying out or doing any act with a view to sign or carry out any such order, report, or certificate, or presenting any such petition as in the preceding sub-section mentioned or doing anything in pursuance of this Act, such proceedings may, upon summary application to the High Court or a Judge thereof, be stayed upon such terms as to costs and otherwise as the Court or Judge may think fit, if the Court or Judge is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care.

“Sec. 331.—(1) Any action brought by any person who has been detained as a lunatic against any person for anything done under this Act shall be commenced within twelve months next after the release of the party bringing the action, and shall be laid or brought in the county or borough where the cause of action arose, and not elsewhere.

“(2) If the action is brought in any other county or borough or is not commenced within the time limited for bringing the same, judgment shall be given for the defendant.”

CARE AND TREATMENT.

Reports after Reception.

" See. 39.—(1) The medical officer of every institution for lunatics, and the medical attendant of every single patient shall at the expiration of one month after the reception of a private patient prepare and send to the Commissioners a report as to the mental and bodily condition of the patient, in such form as the Commissioners direct.

" (2) The medical officer of every house licensed by justices shall also at the same time send a copy of such report to the clerk of the visitors of licensed houses in the county or borough where the house is situate to be by him laid before the visitors.

" (3) The Commissioners, after receiving the report upon any patient in a licensed house within their immediate jurisdiction, shall make arrangements for a visit being paid as soon as conveniently may be to the patient by one or more of the Commissioners ; and the Commissioner or Commissioners so visiting shall report to the Commissioners whether the detention of the patient is or is not proper.

" (4) The visitors, after receiving the report, shall, in every case of a private patient in a licensed house in the county or borough for which the visitors are appointed, make arrangements for a visit being paid by the medical visitor (either alone or with one or more of the other visitors) to the patient therein named for such purpose as aforesaid, as soon as conveniently may be ; and if on such visit there appears to be any doubt as to the propriety of the detention of the patient, such visitor or visitors shall forthwith report the same in writing to the Commissioners, who shall thereupon make all such further inquiries as may be necessary to satisfy themselves whether the patient is properly detained as a lunatic, or whether he ought to be discharged, or whether the case ought to be reported to the Lord Chancellor with a view to an inquisition.

" (5) In the case of a single patient the Commissioners, after receiving the report, shall either make arrangements for a visit being paid as soon as conveniently may be to the patient therein named by one or more of the Commissioners, or, if no Commissioner is available, shall cause a copy of the report to be sent to a medical visitor for the county or borough in which the single patient resides, or to some other competent person, and shall direct him to visit the patient therein named as soon as conveniently may be. The Commissioner or Commissioners, or other person visiting the patient, shall report to the Commissioners whether his detention is or is not proper.

" (6) The person directed to visit a single patient under the last

preceding sub-section shall for that purpose have all the powers of a Commissioner, and the Commissioners may, with the consent of the Treasury, pay to him such reasonable remuneration for his services as they think fit out of any funds which may be provided by Parliament to defray the general expenses of the Commissioners.

“(7) In the case of a private patient in an asylum or hospital the Commissioners, after receiving the report, shall either make arrangements for a visit being paid, as soon as conveniently may be, to the patient therein named by one or more of the Commissioners, who shall report to the Commissioners whether the detention of the patient is or is not proper; or the Commissioners shall send a copy of the report to the clerk to the visiting committee of the asylum or to the managing committee of the hospital, and one or more members of the committee shall thereupon, as soon as conveniently may be, visit the patient named in the report and report to the committee whether his detention is or is not proper, and the committee, or any three of them, may, upon consideration of such last-mentioned report, by writing under their hands discharge the patient or give such directions with regard to him as they think fit.

“(8) If within a month after the reception of any private patient, the institution for lunatics or house into which he was received is visited by one or more Commissioners or by any visitors, and such patient is there seen and examined by him or them, and the propriety of his detention reported on in like manner as by this section provided, no special visit shall necessarily be paid to such patient after receipt of any such report.

“(9) If the Commissioners in any case under this section determine that a patient ought to be discharged they may make an order for his discharge.”

Mechanical Restraint.

“Sec. 40.—(1) Mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others.

“(2) In every case where such restraint is applied a medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded.

“(3) The certificate shall be signed, in the case of a lunatic in an institution for lunatics or workhouse, by the medical officer thereof, and in the case of a single patient, by his medical attendant.

“(4) A full record of every case of restraint by mechanical means shall be kept from day to day; and a copy of the records and certifi-

cates under this section shall be sent to the Commissioners at the end of every quarter.

" (5) In the case of a workhouse, the record to be kept under this section shall be kept by the medical officer of the workhouse, and the copies of records and certificates to be sent shall be sent by the clerk to the guardians.

" (6) In the application of this section ' mechanical means ' shall be such instruments and appliances as the Commissioners may, by regulations to be made from time to time, determine.

" (7) Any person who wilfully acts in contravention of this section shall be guilty of a misdemeanour."

Correspondence.

" Sec. 41.—(1) The manager of every institution for lunatics, and every person having charge of a single patient, shall forward unopened all letters written by any patient and addressed to the Lord Chancellor or any Judge in Lunacy, or to a Secretary of State, or to the Commissioners, or any Commissioner, or to the person who signed the order for the reception of the patient, or on whose petition such order was made, or to the Chancery Visitors or any Chancery Visitor or to any other visitors or visitor or to the visiting committee, or any member of the visiting committee of the institution in which any patient writing such letters may be, and may also at his discretion forward to its address any other letter if written by a private patient.

" (2) Every manager of an institution for lunatics, and every person having charge of a single patient, who makes default in complying with the obligation imposed on him by this section shall be liable to a penalty not exceeding twenty pounds.

" Sec. 43. A medical practitioner who has signed a certificate upon which a reception order in the case of a private patient has been made, shall not be the regular professional attendant of the patient while detained under the order.

" Sec. 44.—(1) The Commissioners may by order direct how often a single patient is to be visited by a medical practitioner.

" (2) Until such order is made every single patient shall be visited once at least in every two weeks by a medical practitioner not deriving, and not having a partner, father, son, or brother who derives any profit from the charge of the patient."

Power to take more than one Lunatic as a single Patient.

" Sec. 46. In the case of any person having charge of a single patient, if the Commissioners are satisfied that it is desirable under special circumstances and for the interests of the patient that

another patient, or more than one other, should reside in the same house, that person may, with the approval of the Commissioners receive such other patient or patients on the same terms and conditions in all respects as if each were a single patient."

Visits of Friends.

"Sec. 47.—(1) Any one of the Commissioners, as to patients confined in an institution for lunatics or other place (not being a gaol) authorised to be visited by the Commissioners, and any one of the visitors of a licensed house, as to patients confined in such house, may at any time give an order in writing under his hand for the admission to any patient of any relation or friend or of any medical or other person whom any relation or friend desires to be admitted to him.

"(2) The order of admission may be either for a single admission, or for an admission for a limited number of times, or for admission generally at all reasonable times, and with or without any restriction as to the presence of an attendant or otherwise.

"(3) If the manager or principal officer of any institution or place refuses, prevents, or obstructs the admission to any patient of any person who produces an order of admission, he shall for every offence be liable to a penalty not exceeding twenty pounds.

"Sec. 49. An order for the examination by two medical practitioners authorised by the Commissioners of any person detained as a lunatic in any institution for lunatics, or as a single patient, may be obtained from the Commissioners upon the application of any person, whether a relative or friend or not who satisfies the Commissioners that it is proper for them to grant such an order. . . ."

(A very important point for a medical man to know when he is consulted by someone as to the propriety of the detention of any person who may be known to the would-be advisee.)

"Sec. 56. Any person having charge of a single patient may change his residence and remove the patient to any new residence of such person in England."

Discharge of Lunatics.

"Sec. 72.—(1) A private patient detained in an institution for lunatics, or under care as a single patient, shall be discharged if the person on whose petition the reception order was made by writing under his hand so directs."

(2) Provides for the discharge of the patient by a relative or the one who pays for him if the petitioner is incapable.

"Sec. 74. A patient shall not be discharged under the provisions

of sec. 72 if the medical officer of the institution, or, in the case of a single patient, his medical attendant, certifies in writing that the patient is dangerous and unfit to be at large together with the grounds on which the certificate is founded, unless two of the visitors of the asylum, or the Commissioners visiting the hospital or house or the visitors of the house or, in the case of a single patient, one of the Commissioners, after the certificate has been produced, consent in writing to the patient's discharge."

Sec. 78. Gives two visitors wider powers of discharge.

"Sec. 83.—(1) The manager of every hospital and licensed house, and a person having charge of a single patient, shall forthwith upon the recovery of a patient send notice thereof . . . to the person on whose petition the reception order was made or by whom the last payment on behalf of the patient was made . . .

"(2) The notice shall state that unless the patient is removed within seven days from the date of the notice he will be discharged.

"(3) In case the patient is not removed within seven days from the date of the notice he shall be forthwith discharged."

We may now pass over a great many sections of the Act as having no special interest for medical men. Secs. 90—107 deal with inquisitions in which a medical man appears merely as a witness under subpoena and oath, by which compulsion and oath his evidence is privileged so far as it is given with care and without malice. Secs. 108—149 deal with judicial powers over the person and estates of lunatics: secs. 150—206 deal with the Commissioners and Visitors in Lunacy; of them only two or three are of much importance to medical men, viz.:

"Sec. 191.—(1) Every hospital and licensed house may at any time, by day or night, be visited by any one or more of the Commissioners.

"(5) The visits of the Commissioners shall be made without previous notice.

"Sec. 198. One or more of the Commissioners shall once at least in every year visit every unlicensed house in which a single patient is detained as a lunatic and inquire into and report to the Commissioners on the treatment and state of bodily and mental health of the patient.

"Sec. 199.—(1) Any one Commissioner, on the direction of the Commissioners, or of any two of them (of whom the one Commissioner may be one), may at all reasonable times visit a single patient, and inquire into and report to the Commissioners or the Lord Chancellor on the treatment and state of health, both bodily and mental, of the patient, and as to the moneys paid on his account.

"(2) Any one or more of the visitors appointed for any county

or borough shall, upon the request in writing of the Commissioners or any two of them, have the like power as regards any single patient detained in an unlicensed house in such county or borough.

“(3) *Upon every visit under this section the medical journal shall be produced to the person making the visit, and he shall sign the same.*

“Sec. 200.—(1) *Any Commissioner visiting an unlicensed house may inspect any part of the house and the grounds belonging thereto.*

“(2) *If the person having charge of a single patient refuses to show to any Commissioner, at his request, any part of the house wherein the single patient resides, or any part of the grounds belonging thereto, he shall be guilty of a misdemeanour.*”

BORDERLAND CASES : SINGLE PATIENTS AND LICENSED HOUSES.

The foregoing sections from 39 onwards have a special interest for those medical men who are willing, and perhaps anxious, to get a mental patient to live with them for the sake of the addition to the practitioner's income. For the guidance of such we would venture to offer the following remarks based on the Act and on experience.

“BORDERLAND CASES” ; NON-CERTIFIED.

These are *par excellence* the cases which cause more trouble to medical practitioners than all the certified lunatics in the country. On the one hand they usually are ready to pay fairly freely for their care, at least their friends are ready to pay to be rid of the trouble of looking after them, and moreover alienists of the very highest repute, from the highest and sincerest of motives, are prepared to swear that private care in a home is the very best treatment, and that institutional care in association with other lunatics is likely to do more harm than good, and, finally, under the present state of the law, it is asserted that it would be rash from all points of view to certify them.

What now is the other side of the picture? Firstly, the personal care, responsibility, and trouble thrown on the practitioner is extremely great, so much so in some cases as almost to destroy his personal liberty, a state of affairs which has to be weighed against the pecuniary gain, whether found wanting in the balance must be left to personal feelings; secondly, comes the risk of such a case passing the borderline, and by his or her behaviour attracting the attention of someone who reports the case to the Commissioners, which report is almost sure to be followed by very inconvenient legal proceedings; thirdly, as Sir

Clifford Allbutt remarks " If it be true that private care is the best, why have the legislature and the profession been at such pains to establish throughout the country licensed houses with every conceivable aid to recovery that modern knowledge and thought can devise." (*B. M. Jour.*, May 28th, 1904).

On the whole, we would strongly dissuade any practitioner from taking such a case into his own house, at any rate let him weigh well the pros and cons before doing so. It is true he needs no licence to have such a case or even two or three such, but this very absence of restraint should make him doubly careful.

SINGLE PATIENTS WITHOUT LICENCE.

Still, without a licence, but with the full knowledge of the Commissioners he may accept one patient and even, by sec. 46, may be granted powers to accept two or three each as " single patients," all of whom are under orders and certificates and for all of whom he is now responsible to the law as represented by Commissioners and Visitors, &c. Here the practitioner begins to get upon firmer ground, he at least knows that he is dealing with certified lunatics and must make his preparations accordingly ; but so long as he attends to the spirit and letter of the Act he is not liable to be brought before a local police court as an individual suspected of illicit gains out of weak-minded victims.

LICENSED HOUSES AND CERTIFIED CASES.

Suppose now he determines to " go in for lunacy " and obtain a licence, he must carefully study secs. 207—229 (of too little general interest to quote here) and then remember that he immediately brings himself under the Act and all its minute details and precautions against ill-treatment, &c., of his patients. He will now, however, be on absolutely sure ground and know exactly where he is, a thing he never can know when dealing with the so-called borderland cases above.

The chief conditions to be fulfilled in obtaining a licence are contained in the following sections.

" *Sec. 210. Before a licence is, in any case provided for by this Act, granted for a house not within the immediate jurisdiction of the Commissioners and not previously licensed, one or more of the Commissioners shall by inspection ascertain whether the house and its appurtenances are suitable for the reception of lunatics, and the Commissioners shall report thereon to the clerk of the peace of the*

county or borough, and the report shall be received and considered by the justices.

"Sec. 211. A licence shall not be granted unless the licensee or one of the licensees undertakes to reside in the house.

"Sec. 217.—(1) For every licence there shall be paid to the secretary of the Commissioners, or to the clerk of the peace, according as the licence is granted by the Commissioners or justices (exclusive of the stamp,) the sum of ten shillings for every patient not being a pauper, and the sum of two shillings and sixpence for every patient being a pauper.

"(2) If the total amount of such sums of ten shillings and two shillings and sixpence does not amount to fifteen pounds, then so much more shall be paid as makes up fifteen pounds.

"Sec. 220. If a licensee receives into his licensed house any patients beyond the number specified in the licence, or fails to comply with the regulations of the licence as to the sex of the patients or the class of patients, he shall for each patient received contrary to his licence forfeit fifty pounds.

"Sec. 223. The powers of the Commissioners and visitors with reference to any licensed house and the patients therein, and all powers and provisions of this Act having reference to the discharge, removal, and transfer of the patients, shall, after the expiration or revocation of the licence, continue in force so long as any patients are detained therein as lunatics."

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We now come to the last part of the Act, dealing with penalties and misdemeanours, &c., some of which, of course, refer to those who sign certificates in the course of an ordinary practice, others are only of interest to those who have the care and control of patients.

"Sec. 315.—(1) Every person who, except under the provisions of this Act, receives or detains a lunatic, or alleged lunatic, in an institution for lunatics, or for payment takes charge of, receives to board or lodge, or detains a lunatic or alleged lunatic in an unlicensed house, shall be guilty of a misdemeanour, and in the latter case shall also be liable to a penalty not exceeding fifty pounds.

"(2) Except under the provisions of this Act, it shall not be lawful for any person to receive or detain two or more lunatics in any house unless the house is an institution for lunatics or workhouse.

"(3) Any person who receives or detains two or more lunatics in any house, except as aforesaid, shall be guilty of a misdemeanour.

"Sec. 316. The manager of any hospital or licensed house, and any person having charge of a single patient, who omits to send to the

Commissioners the prescribed documents and information upon the admission of a patient, or to make the prescribed entries, and give the prescribed notices upon the removal, discharge, or death of a patient, shall be guilty of a misdemeanour, and in the case of a single patient shall also be liable to a penalty not exceeding fifty pounds.

" Sec. 317.—(1) Any person who makes a wilful misstatement of any material fact in any petition, statement of particulars, or reception order under this Act, shall be guilty of a misdemeanour.

" (2) Any person who makes a wilful misstatement of any material fact in any medical or other certificate, or in any statement or report of bodily or mental condition under this Act, shall be guilty of a misdemeanour.

" (3) A prosecution for a misdemeanour under this section shall not take place except by order of the Commissioners, or by the direction of the Attorney-General or the Director of Public Prosecutions.

" Sec. 318. Any person who in any book, statement, or return, knowingly makes any false entry as to any matter as to which he is by this Act or any rules made under this Act required to make any entry, shall be guilty of a misdemeanour.

" Sec. 319. If the manager of an institution for lunatics, or the person having charge of a single patient, omits to send to the coroner notice of the death of a lunatic within the prescribed time, he shall be guilty of a misdemeanour.

" Sec. 320. Any person who makes default in sending to the Commissioners or any other person any return, report, extract, copy, statement, notice, plan, or document, or any information within his knowledge or obtainable by him, when required so to do under this Act or any other Act relating to lunacy, or any rules made under this Act or in complying with the said Acts or rules, shall for each day or part of a day during which the default continues be liable to a penalty not exceeding ten pounds, unless a penalty is expressly imposed by this or any other Act for such default: Provided that all or any part of the cumulative penalties may be remitted by the court in any case in which it is made to appear to the satisfaction of the court that the original default or its continuance during any period of time arose from mere accident or oversight, and not from wilful or culpable neglect on the part of the person sued.

" Sec. 321.—(1) Any person who obstructs any Commissioner or Chancery or other visitor in the exercise of the powers conferred by this or any other Act, shall for each offence be liable to a penalty not exceeding fifty pounds, and shall also be guilty of a misdemeanour.

" (2) Any person who wilfully obstructs any other person authorised under this Act by an order in writing under the hand of

the Lord Chancellor or a Secretary of State to visit and examine any lunatic or supposed lunatic, or to inspect or inquire into the state of any institution for lunatics, gaol, or place wherein any lunatic or person represented to be lunatic is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorised under this Act by any order of the Commissioners to make any visit and examination or inquiry in the execution of such order, shall (without prejudice to any proceedings, and in addition to any punishment to which such person obstructing the execution of such order would otherwise be subject) be liable for every such offence to a penalty not exceeding twenty pounds.

“ Sec. 324. If any manager, officer, nurse, attendant, or other person employed in any institution for lunatics (including an asylum for criminal lunatics), or workhouse, or any person having the care or charge of any single patient, or any attendant of any single patient, carnally knows or attempts to have carnal knowledge of any female under care or treatment as a lunatic in the institution, or workhouse, or as a single patient, he shall be guilty of a misdemeanour, and, on conviction on indictment, shall be liable to be imprisoned with or without hard labour for any term not exceeding two years ; and no consent or alleged consent of such female thereto shall be any defence to an indictment or prosecution for such offence.

“ Sec. 329.—(1) Where any person is proceeded against under this Act on a charge of omitting to transmit or send any copy, list, notice, statement, report or other document required to be transmitted or sent by such person, the burden of proof that the same was transmitted or sent within the time required shall lie upon such person, but if he proves by the testimony of one witness upon oath that the copy, list, notice, statement, report or document in respect of which the proceeding is taken was properly addressed and put into the post in due time, or (in case of documents required to be sent to the Commissioners or a clerk of the peace or a clerk to guardians) left at the office of the Commissioners or of the clerk of the peace or clerk to guardians, such proof shall be a bar to all further proceedings in respect of such charge.

“ (2) In proceedings under this Act, where a question arises whether a house is or is not a licensed house or registered as a hospital, it shall be presumed not to be so licensed or registered unless the licence or certificate of registration is produced, or sufficient evidence is given that a licence or certificate is in force.”

It seems advisable, in conclusion, to insert the following prescribed forms, so that any medical practitioner may privately inform himself of any one of them before he takes more formal steps.

FORM I.

Petition for an Order for reception of a Private Patient.

Sections 4, 5.

In the matter of *A.B.* a person alleged to be of unsound mind.

To a justice of the peace for

[or

To His Honour the judge of the county court of or To stipendiary magistrate for .]

The petition of *C.D.* of [1] in the county of

1. I am [2] years of age.

2. I desire to obtain an order for the reception of *A.B.* as a lunatic [3] in the asylum [or hospital or house as the case may be] of situate at [4]

3. I last saw the said *A.B.* at on the [5] day of

4. I am the [6] of the said *A.B.* [or if the petitioner is not connected with or related to the patient state as follows:]

I am not related to or connected with the said *A.B.* The reasons why this petition is not presented by a relation or connection are as follows: [State them.]

The circumstances under which this petition is presented by me are as follows: [State them.]

5. I am not related to or connected with either of the persons signing the certificates which accompany this petition as (*where the petitioner is a man*) husband, father, father-in-law, son, son-in-law, brother, brother-in-law, partner or assistant, (*or where the petitioner is a woman*) wife, mother, mother-in-law, daughter, daughter-in-law, sister, sister-in-law, partner or assistant.

6. I undertake to visit the said *A.B.* personally or by some one specially appointed by me at least once in every six months while under care and treatment under the order to be made on this petition.

7. A statement of particulars relating to the said *A.B.* accompanies this petition.

If it is the fact add:

8. The said *A.B.* has been received in the asylum [or hospital or house as the case may be] under an urgency order dated the

The petitioner therefore prays that an order may be made in accordance with the foregoing statement.

[Signed]

Dated full Christian and surname.

[1] Full postal address and rank, profession, or occupation.

[2] At least twenty-one.

[3] or an idiot or person of unsound mind.

[4] Insert a full description of the name and locality of the asylum, hospital, or licensed house, or the full name, address, and

description of the person who is to take charge of the patient as a single patient.

[5] Some day within 14 days before the date of the presentation of the petition.

[6] Here state the connection or relationship with the patient.

FORM 2.

Statement of Particulars.

Sections 4, 5,

I I.

STATEMENT of particulars referred to in the annexed petition [or in the above or annexed order].

The following is a statement of particulars relating to the said *A.B.* [1] :—

Name of patient, with Christian name at length.
Sex and age.

[1] If any particulars are not known, the fact is to be so stated [Where the patient is in the petition or order described as an idiot omit the particulars marked †].

† Married, single, or widowed.

† Rank, profession, or previous occupation (if any).

† Religious persuasion.

Residence at or immediately previous to the date hereof.

† Whether first attack.

Age on first attack.

When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.

† Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others, and in what way.

Whether any near relative has been afflicted with insanity.

Names, Christian names, and full postal addresses of one or more relatives of the patient.

Name of the person to whom notice of death to be sent, and full postal address if not already given.

Name and full postal address of the usual medical attendant of the patient.

(Signed)

When the petitioner or person signing an urgency order is not the person who signs the statement, add the following particulars concerning the person who signs the statement.	{	Name with Christian name at length.
Rank, profession, or occupation (if any).		
How related to or otherwise connected with the patient.		

FORM 3.

Order for reception of a private patient to be made by a Justice appointed under the Lunacy Act, 1890, Judge of County Courts, or Stipendiary Magistrate. Section 6.

I, the undersigned *E.F.*, being a Justice for specially appointed under the Lunacy Act, 1890 [or the Judge of the County Court of or the Stipendiary Magistrate for] upon the petition of *C.D.*, of [1] in the matter of *A.B.* a lunatic, [2] accompanied by the medical certificates of *G.H.* and *I.F.* hereto annexed, and upon the undertaking of the said *C.D.* to visit the said *A.B.* personally or

[1] Address and description.

[2] Or an idiot or person of unsound mind.

by some one specially appointed by the said *C.D.* once at least in every six months while under care and treatment under this order, hereby authorise you to receive the said *A.B.* as a patient into your asylum [3]. And I declare that I have [or have not] personally seen the said *A.B.* before making this order.

Dated

(Signed) *E.F.*

A Justice for appointed under the above-mentioned Act, [or The Judge of the County Court of or a Stipendiary Magistrate.]

To [4]

[3] Or hospital or house or as a single patient.
[4] To be addressed to the medical superintendent of the asylum or hospital, or to the resident licensee of the house in which the patient is to be placed.

FORM 4.

Form of urgency Order for the reception of a private patient. Section II.

I, the undersigned, being a person twenty-one years of age, hereby authorise you to receive as a patient into your house [1] *A.B.*, as a lunatic [2], whom I last saw at on the [3] day of 18 . I am not related to or connected with the person signing the certificate which accompanies this order in any of the ways mentioned in the margin [4]. Subjoined [or annexed] hereto [5] is a statement of particulars relating to the said *A.B.*

(Signed)

Name and Christian name at length

Rank, profession, or occupation (if any)

Full postal address

How related to or connected with the patient.

[If not the husband or wife or a relative of the patient, the person signing to state as briefly as possible : 1. Why the order is not signed by the husband or wife or a relative of the patient. 2. His or her connection with the patient, and the circumstances under which he or she signs.]

[1] Or hospital or asylum or as a single patient.
[2] Or an idiot or a person of unsound mind.
[3] Some day within two days before the date of the order.
[4] Husband, wife, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, partner, or assistant.
[5] See Form 2.

Describing the asylum, hospital, or house by situation and name.

Dated this day of 18 .

To superintendent of the asylum
[hospital or resident licensee of the house].

FORM 5.

Section 8.

Certificate as to Personal Interview after Reception.

I certify that it would be prejudicial to *A.B.* to be taken before or visited by a justice, a judge of county courts, or magistrate.

(Signed) *C.D.*,
Medical Superintendent of the
Asylum or Hospital
or Resident Medical Practitioner
or Attendant of the
or Medical Attendant of the said
A.B.

FORM 6.

Section 8.

Notice of Right to Personal Interview.

Take notice that you have the right, if you desire it, to be taken before or visited by a justice, judge of county courts, or magistrate. If you desire to exercise such right, you must give me notice thereof by signing the enclosed form on or before the day of

Dated

(Signed) *C.D.*
Superintendent of the
Asylum or Hospital
or Resident Licensee of
[or as the case may be.]

FORM 7.

Section 8.

Notice of Desire to have a Personal Interview.

Dated

[Address]

I desire to be taken before or visited by a justice, judge, or magistrate having jurisdiction in the district within which I am detained.

Signed

FORM 8.

Sections 4, 11,
16, 23, 24.*Certificate of Medical Practitioner.*

In the matter of *A.B.* of [1] in the county [2]
of [3], an alleged lunatic.

I, the undersigned *C.D.*, do hereby certify as follows :

1. I am a person registered under the Medical Act, 1858, and I am in the actual practice of the medical profession.

2. On the day of 18 , at [4] in the county [5] of [separately from any other practitioner] [6], I personally examined the said *A.B.* and came to the conclusion that he is a [lunatic, an idiot, or a person of unsound mind] and a proper

[1] Insert residence of patient.

[2] City or borough, as the case may be.

[3] Insert profession or occupation, if any.

[4] Insert the place of examination, giving the name of the street, with number or name of house, or should there be no number the christian and surname of occupier

[5] City or borough, as the case may be.

[6] Omit this where

person to be taken charge of and detained under care and treatment.

3. I formed this conclusion on the following grounds, viz. :—

(a) Facts indicating insanity observed by myself at the time of examination [7], viz. :—

(b) Facts communicated by others, viz. :—[8]

[If an urgency certificate is required it must be added here. See Form 9.]

4. The said *A.B.* appeared to me to be [or not to be] in a fit condition of bodily health to be removed to an asylum, hospital, or licensed house. [9]

5. I give this certificate having first read the section of the Act of Parliament printed below.

Dated (Signed) C.D., of [10]

Extract from section 317 of the Lunacy Act, 1890.

Any person who makes a wilful misstatement of any material fact in any medical or other certificate or in any statement or report of bodily or mental condition under this Act, shall be guilty of a misdemeanor.

FORM 9.

Sections 11, 28.

Statement accompanying Urgency Order.

I certify that it is expedient for the welfare of the said *A.B.*, [or for the public safety, as the case may be] that the said *A.B.* should be forthwith placed under care and treatment.

My reasons for this conclusion are as follows :
[state them].

SECTION I. (B.)—CRIMINAL LUNACY.

As far back as 1840 "*An Act (3 & 4 Vic. c. 54) for making further provision for the confinement and maintenance of insane prisoners*" was passed, and between then and 1884 some five or six other Acts bearing on Criminal Lunacy have been passed, but for practical purposes, at least so far as ordinary medical practitioners are concerned, legislation on the subject dates from 1884, when "*47 & 48 Vic. c. 64. An Act to consolidate and amend the Law relating to Criminal Lunatics. Aug. 14, 1884; or the Criminal Lunatics Act*" was passed. Comparatively little of the Act is of general interest to the profession, however deeply interesting to us may be the whole subject of criminal responsibility.

Dr. Nicolson, whose experience on the subject is probably unique, remarks ("*Allbutt's Syst. of Med.*," Vol. VIII.) "There are six stages at which a criminal offender may be officially recognised as insane : (i.) while awaiting trial ; (ii.) on arraignment ; (iii.) when found guilty but insane ; (iv.) while awaiting judgment

only one certificate is required.

[7] If the same or other facts were observed previous to the time of the examination, the certifier is at liberty to subjoin them in a separate paragraph.

[8] The names and christian names (if known) of informants to be given, with their addresses and descriptions.

[9] Strike out this clause in case of a private patient whose removal is not proposed.

[10] Insert full postal address.

(v.) when reprieved on the ground of insanity ; (vi.) while undergoing a term of punishment.

For a full discussion of the bearing of this fact, and as to the law on the subject of criminal responsibility we must refer the reader to "Taylor," Vol. I., pp. 863 *et seq.* Here we are only concerned with the involvement of a medical man in the decision as to whether a criminal offender is or is not insane.

"Sec. 2.—(1) *Where a prisoner is certified, in manner provided in this section, to be insane, a Secretary of State may . . . put him in an asylum*" and keep him there "*till he ceases to be a criminal lunatic.*"

This is the meaning of the phrase "Ordered to be detained during his Majesty's pleasure."

"Sec. 2.—(3) *Where it appears to any two members of the visiting committee of a prison that a prisoner in such prison, not being under sentence of death, is insane, they shall call to their assistance two legally qualified medical practitioners, and such members and practitioners shall examine such prisoner and inquire as to his insanity, and after such examination and inquiry may certify in writing that he is insane.*"

"Sec. 2.—(4) *In the case of a prisoner under sentence of death, if it appears to a Secretary of State, either by means of a certificate signed by two members of the visiting committee of the prison in which such prisoner is confined, or by any other means, that there is reason to believe such prisoner to be insane, the Secretary of State shall appoint two or more legally qualified medical practitioners, and the said medical practitioners shall forthwith examine such prisoner and inquire as to his insanity, and after such examination and inquiry such practitioners shall make a report in writing to the Secretary of State as to the sanity of the prisoner, and they, or the majority of them, may certify in writing that he is insane.*

"Sec. 3. *Where it is certified by two legally qualified medical practitioners that a person being a criminal lunatic (not being a person with respect to whom a special verdict has been returned that he was guilty of the act or omission charged against him, but was insane at the time when he committed the act or made the omission) is sane, a Secretary of State, if satisfied that it is proper so to do, may by warrant direct such person to be remitted to prison, to be dealt with according to law.*

"Sec. 5.—(2) *A Secretary of State by warrant may absolutely discharge any criminal lunatic, and may also discharge any criminal lunatic conditionally, that is to say, on such conditions as to duration of such discharge and otherwise as the Secretary of State may think fit.*

"Sec. 6. Where a person, being a criminal lunatic, is detained in any asylum or place, and either he is absolutely discharged or the term of penal servitude or imprisonment to which he is subject determines, it shall be the duty of the superintendent of such asylum or place, unless satisfied that the said person is sane to take all reasonable means for his being placed under the care of some relation or friend, or in some asylum or place for the reception of lunatics.

"Sec. 7.—(1) Where a person being a criminal lunatic is detained in an asylum or other place, or being a prisoner in any prison is certified in manner provided by this Act to be insane, but has not been directed by the Secretary of State to be removed to an asylum and it is made to appear to any justice of the peace having jurisdiction where such asylum or place or prison is situate, or being a member of the visiting committee of such prison, by notice in writing signed by the superintendent of such asylum or place, or by the governor of such prison either ; (a) that such person is about to be absolutely discharged, or (b) that any term of penal servitude or imprisonment to which such person is subject is about to determine, and that in the opinion of such superintendent or governor such person is insane and unfit to be at large, the said justice shall examine such person and make any inquiry and take any medical or other evidence which he may deem necessary respecting him.

"Sec. 9. With respect to the transfer by warrant of a Secretary of State, and the removal by order of a justice under this Act, of a person from an asylum for criminal lunatics appointed by Her Majesty, in pursuance of the Criminal Lunatic Asylums Act, 1860, to an asylum within the meaning of the Lunatic Asylums Act, 1853, the following provisions shall have effect :—

"(1) The Secretary of State or justice shall be satisfied either, by a certificate from a legally qualified medical practitioner, that the said person is in such a state of insanity that he can be properly treated in an ordinary asylum, or that the committee of visitors of the asylum to which the said person is proposed to be transferred or removed consents to receive him."

With regard to all these sections containing the words "legally qualified medical practitioner" and other words indicating "medical evidence" it may be said at once that police surgeons and medical officers of prisons and lunatic asylums and specialists of high standing are really the ones concerned, no ordinary medical practitioner is ever likely to be called in, and though many men do hold the position of police surgeon they may rest assured that there will always be someone in a higher official position before whom their evidence will be brought so that their responsibility in matters under this Act is of the slightest.

In ordinary trials, however, where lunacy is pleaded as an excuse for crime, any practitioner, in however humble a position, may at any time be involved: his conduct and the nature and amount of his evidence are not regulated by Act of Parliament, and we can say nothing on these points here, but would refer the reader to "Taylor," Vol. I.

CRIMINAL LUNATICS IN IRELAND.

30 & 31 Vic. c. 118 refers to this subject.

CHAPTER VIII.—SECTION II.

IDIOTS AND IMBECILES, OR CONGENITAL AND INFANTILE MENTAL DEFICIENCY.

In the Idiots Act, 1886, there is no reference to the repeal of any previous Act dealing with the same subject, therefore I presume that "49 & 50 Vic. c. 25. *An Act for giving facilities for the care, education and training of Idiots and Imbeciles. June 25, 1886*" must be the law's first attempt to differentiate between *Dementia naturalis* and *Dementia adventitia* [curiously enough this Act of 1886, sec. 17, definitely states, "Idiots" or "imbeciles" in this Act do not include lunatics, and "lunatic" does not mean or include "idiot" or "imbecile," while the 1890 Lunacy Act, sec. 341, defines "lunatic" as an "idiot" or person of unsound mind—this would seem to be an attempt to fix different meanings to the same word by Act of Parliament, a practice which makes Acts of Parliament so difficult to understand for the man of ordinary intelligence].

"Sec. 4. *An idiot or imbecile from birth or from an early age may, if under age, be placed by his parents or guardians or by any person undertaking or performing towards him the duty of a parent or guardian, and may lawfully be received into, and until of full age detained in any hospital, institution, or licensed house, registered under this Act for the care, education, and training of idiots or imbeciles upon the certificate in writing of a duly qualified medical practitioner in the Form on p. 192, that the person to whom such certificate relates is an idiot or imbecile, capable of receiving benefit from such hospital, institution, or licensed house, accompanied by a statement in the Form on p. 193, signed by the parent or guardian of the idiot or imbecile, or the person undertaking or performing towards the duty of a parent or guardian.*

"Sec. 5. *Any idiot or imbecile who has while under age been received under this Act into any hospital, institution, or licensed*

house, registered under this Act may, with the consent in writing of the Commissioners in Lunacy, be retained therein after he is of full age, or an idiot or imbecile from birth or from an early age, may be received into any hospital, institution, or licensed house, registered under this Act after he is of full age upon the certificate in writing of a duly qualified medical practitioner in the Form (below), accompanied by a statement in the Form on p. 193, signed by the parent or guardian of the idiot or imbecile, or the person undertaking or performing towards him the duty of a parent or guardian.

"Sec. 7. The managing committee or the principal officer of every hospital, institution, or licensed house, in which idiots or imbeciles are intended to be received under this Act shall apply to the Commissioners to have the hospital, institution, or licensed house, registered in the office of the Commissioners, and the Commissioners, if satisfied upon inquiry that the hospital, licensed house, or institution is a proper one to be registered, shall issue a certificate of registration accordingly, and no idiot or imbecile shall be received into any hospital, institution, or licensed house under this Act until the same hospital, institution, or licensed house, has been duly registered.

"Sec. 10. When an idiot or imbecile dies in any hospital, institution, or licensed house, registered under this Act, or is discharged therefrom, the superintendent or principal officer thereof shall forthwith notify in writing such death or discharge to the Commissioners.

"Sec. 13. A medical journal shall be kept in every hospital, institution, and licensed house, registered under this Act, in such form as the Commissioners may from time to time direct.

"Sec. 14. In the case of any hospital, institution, or licensed house, registered under this Act, the Commissioners may by order in writing direct that a duly qualified medical practitioner shall reside therein.

"Sec. 15. Nothing in this Act shall operate to deprive the guardians of the poor of any union of the power of sending pauper idiots or imbeciles to hospitals, institutions, or licensed houses, registered under this Act, or from receiving in respect of such idiots or imbeciles such sums of money as shall from time to time be granted by Parliament towards the maintenance and care of pauper lunatics, as if the same idiots and imbeciles were pauper lunatics."

FORM I.

Form of Medical Certificate.

I, the undersigned A.B., a person registered under the Medical Act, 1858, and in the actual practice of the Medical profession, certify that I have carefully examined C.D., an infant [or of full age], now residing at _____, and that I am of opinion that the said C.D.,

is an idiot [or has been imbecile from birth, or for years past, or from an early age], and is capable of receiving benefit from [the institution (describing it)] registered under the Idiots Act, 1886.

Signed

Dated.

Full postal address.

FORM 2.

Form of Statement to accompany Medical Certificate.

[If any particulars in the statement be not known, the fact to be so stated.

Name, with christian name at length

Sex age

When and where previously under care and treatment

In any asylum or institution

Whether subject to epilepsy

Whether dangerous to others.

I certify that, to the best of my knowledge, the above particulars are correctly stated.

Signed. Name and full postal address.

[Parent, guardian, or the person acting as such.]

COMMENTS ON THE SECTION.

It is by no means an infrequent occurrence for a private medical practitioner to be asked advice as to what can be done for a mentally defective child ; not much of an answer can be got directly out of the Act in the very cases in which the question is most troublesome, viz., those in which the parents or guardians are in very moderate circumstances.

If they are really well to do there is no difficulty in finding a licensed house into which the child can be received, for such houses are scattered up and down the Kingdom, probably in sufficient numbers to accommodate all rich idiots or imbeciles who are not accommodated properly at home. We have no personal knowledge of the fees charged, but would estimate them probably from three or four guineas a week upwards according to circumstances, both of care and attention required and of the pockets of the parents.

Now, taking the other extreme, viz., those idiots or imbecile children whose parents or guardians are totally unable to pay anything, or at most only a very few shillings, towards the expenses, here sec. 15 comes to the rescue and the practitioner can explain to the parents that the case can be certified and dealt with under the poor law. The guardians have their own methods of making the parents pay what they can afford, and usually insist pretty strictly upon getting their pound of flesh.

With all the intermediate cases the position is really one of very

great difficulty and delicacy; on the one hand expense, on the other pauperism with all it may entail. If the practitioner is really intent upon helping he can either by advertisement in the professional journals or by inquiry at the Home Office, find out the addresses of as many licensed institutions as he likes, and he can then tell the parents to write to the institutions and inquire their charges. If one is found with charges to suit, well and good; if not, they may then write and make an offer of what they can pay. If they find this accepted, again well and good. If neither of these happy ways out of the difficulty presents itself the position comes down to this, either the parents must go on caring for or neglecting the imbecile child as they were doing or they must sink their pride entirely and try and adopt the poor law plan of having the child looked after as a pauper. I am not sufficiently acquainted with the intricacies of the poor law to state what disabilities and liabilities this may entail, but it certainly involves a considerable mental wrench if nothing more.

Sec. 7 is the important one for any medical man wishing to start an institution for idiots. "The Commissioners" means the Commissioners in Lunacy. He had better also study the Lunacy Act to see that he does not commit any offence under that Act.

It is not out of place to insert here "*Sec. 5 (2) of 48 & 49 Vic. c. 69 or Criminal Law Amendment Act*" which runs as follows:—

"*Any person who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of any female idiot or imbecile woman or girl, under circumstances which do not amount to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile, shall be guilty of a misdemeanour . . . penalty, imprisonment for not more than two years,*" and in ordinary language means that an idiot or imbecile cannot give a valid consent to connection nor be an inviting or consenting party to such.

SECTION III.

HABITUAL DRUNKARDS.

Public opinion upon this subject (which may be regarded professionally at all events, as a form of lunacy) seems not to have ripened till 1879, in which year "*42 & 43 Vic. c. 19. An Act to facilitate the control and cure of Habitual Drunkards. July 3, 1879*" was passed, followed in 1888 by "*51 & 52 Vic. c. 19. An Act to amend the Habitual Drunkards Act of 1879.*" This contained only three effective clauses.

Clause 2 made the 1879 Act permanent instead of temporary (for 10 years) ; Clause 3 allowed a licensee to appoint a deputy for as much as six weeks in any one year provided the deputy was approved by the local authority, and Clause 4 made simpler the attestation of the drunkard's signature when voluntarily applying to be taken care of.

" *In 1898, 61 & 62 Vic. c. 60. An Act to provide for the treatment of Habitual Drunkards. Aug. 12, 1898,*" was passed with two main objects : (1) to provide for the establishment of State reformatories as opposed to private licensed houses which previously were alone available ; and (2) to make the application of the 1879 Act somewhat more effective.

A brief two-clause Amendment Act " *62 & 63 Vic. c. 35. An Act to amend the Inebriates Act of 1898. Aug. 9, 1899,*" was passed purely non-medical.

Lastly, in 1900 " *63 & 64 Vic. c. 28. An Act to amend the Inebriates Acts 1879 to 1899 for Scotland*" was passed, which again is of little medical interest, its sole active clause (apart from monetary arrangements) stating that " *Every person who in any road, street, or public place, or in any building to which the public have access, [in Scotland] commits the offence of behaving while drunk in a riotous or disorderly manner, may be prosecuted summarily.*"

We must now consider the provisions of the two principal Acts of 1879 and 1898.

" *42 & 43 Vic. c. 19. Habitual Drunkards Act.*

" *Sec. 3. 'Habitual Drunkard' means a person who, not being amenable to any jurisdiction in lunacy, is notwithstanding, by reason of habitual intemperate drinking of intoxicating liquor, at times dangerous to him- or herself or to others, or incapable of managing himself or herself, and his or her affairs.*"

RETREATS.

" *Sec. 6. The local authority may, subject to any conditions which such local authority shall deem fit, grant to any person, or to two or more persons jointly, a licence for any period not exceeding thirteen months, to keep a retreat, and may, from time to time, revoke or renew such licence. The application for such licence shall be in the Form No. 1 in the second Schedule hereto, or to the like effect. The licence shall be in the Form No. 2 in the same Schedule, or to the like effect. One at least of the persons to whom a licence is granted shall reside in the retreat and be responsible for its management. A duly qualified man shall be employed as medical attendant of such retreat,*

provided that when the name of the licensee shall be on the Medical Register he may himself act as such medical attendant."

" Sec. 7. No licence shall be given to any person who is licensed to keep a house for the reception of lunatics.

" Sec. 8. If the licence of any retreat become incapable, from sickness or otherwise, of keeping such retreat . . . the local authority . . . may transfer the licence to another person, if the local authority, in its discretion, shall think fit."

By these clauses is power given for the establishment of private inebriate reformatories, but precious little encouragement is given to any private individual to establish them, for by the succeeding clauses very stringent regulations are laid down as to the management of them; inspectors of retreats are appointed by sec. 13, who must inspect and report on the management as to the way in which the regulations laid down in accordance with Clause 17 are carried out.

" Clause 17. The Secretary of State may from time to time make rules for the management of a retreat, and may from time to time cancel or alter such rules.

" Any person who contravenes or fails to comply with any such rules for the management of a retreat shall be deemed to be guilty of an offence against this Act.

" A printed copy of rules purporting to be the rules of a retreat, signed by the Inspector or Assistant Inspector of Retreats, shall be evidence of such rules of the retreat.

" Sec. 23. If any licensee of any retreat knowingly and wilfully fails to comply with the provisions of this Act, or neglects or permits to be neglected any habitual drunkard placed in the retreat in respect of which he is licensed, or does anything in contravention of the provisions of this Act, he shall be deemed guilty of an offence against this Act."

" Sec. 24. If any person does any of the following things :—

" (1) Ill-treats, or, being an officer, servant, or other person employed in or about a retreat, wilfully neglects, any habitual drunkard detained in a retreat ;

" (2) Induces or knowingly assists an habitual drunkard detained in a retreat to escape therefrom ;

" (3) Without the authority of the licensee or the medical officer of the retreat (proof whereof shall lie on him) brings into any retreat, or, without the authority of the medical officer of the retreat, except in case of urgent necessity, gives or supplies to any person detained therein any intoxicating liquor, or sedative narcotic, or stimulant, drug or preparation, he shall be deemed guilty of an offence against the Act."

"Sec. 25. If an habitual drunkard, while detained in a retreat, wilfully neglects or wilfully refuses to conform to the rules thereof, he shall be deemed guilty of an offence against this Act . . ."

"Sec. 27. In case of the death of any person detained in any retreat a statement of the cause of the death of such person, with the name of any person present at the death, shall be drawn up and signed by the principal medical attendant of such retreat, and copies thereof, duly certified in writing by the licensee of such retreat, shall be by him transmitted to the coroner and to the registrar of deaths for the district, and to the clerk of the local authority, and to the person by whom the last payment was made for the deceased, or one at least of the persons who signed the statutory declaration under section ten of this Act.

"Every medical attendant who shall neglect or omit to draw up and sign such statement as aforesaid, and every licensee of a retreat who shall neglect or omit to certify and transmit such statement as aforesaid, shall be deemed guilty of an offence against this Act."

These Clauses—23, 24, 25, 27—are classified as "offences," and are the chief ones concerning the licensee, and certainly seem well calculated to restrain any reasonable person from being a licensee. Clause 31 gives him some little protection against a vindictive client; it runs—

"31. Any action against any person for anything done in pursuance or execution or intended execution of this Act shall be commenced within two years after the thing done, and not otherwise," yet even so we cannot advise a medical man to take up the part of licensee as a comfortable one.

Clause 35 extends the Act with modifications to Scotland, and Clause 36 does the same with modifications to Ireland.

The chief sections of the other main Act "61 & 62 Vic. c. 60, *Inebriates Act*, 1898," run as follows:—

"1.—(1) Where a person is convicted on indictment of an offence punishable with imprisonment or penal servitude, if the court is satisfied from the evidence that the offence was committed under the influence of drink or that drunkenness was a contributing cause of the offence, and the offender admits that he is or is found by the jury to be a habitual drunkard, the court may, in addition to or in substitution for any other sentence, order that he be detained for a term not exceeding three years in any State inebriate reformatory or in any certified inebriate reformatory the managers of which are willing to receive him.

"2.—(1) Any person who commits any of the offences mentioned in the First Schedule to this Act, and who within the twelve months

preceding the date of the commission of the offence has been convicted summarily at least three times of any offences so mentioned, and who is a habitual drunkard, shall be liable upon conviction, on indictment, or if he consents to be dealt with summarily on summary conviction, to be detained for a term not exceeding three years in any certified inebriate reformatory the managers of which are willing to receive him.

" Sec. 3. The Secretary of State may establish reformatories (in this Act called State inebriate reformatories), and for that purpose may, with the approval of the Treasury, acquire any land, or erect or acquire any building, or appropriate the whole or any part of any building vested in him or under his control, and any expenses incurred under this section shall be paid out of moneys provided by Parliament."

This is the essential clause of the Bill, enabling Government to establish reformatories for drunkards to which confinement might be made compulsory in contradistinction to those reformatories for admission to which the consent of the managers or licensee had to be obtained.

" (3) The Secretary of State may make regulations for the rule and management of any State inebriate reformatory, and for the classification, treatment, employment, and control of persons sent to it in pursuance of this Act, and for their absence under licence; and, subject to any adaptations, alterations, and exceptions made by such regulations, the Prison Acts, 1865 to 1898 (including the penal provisions thereof), shall apply in the case of every such reformatory as if it were a prison. Provided that no regulation shall authorise the infliction of corporal punishment in any State inebriate reformatory."

The blot on this clause is the negation of punishment, inserted doubtless in obedience to the idea that "habitual" drunkenness is a disease and not a crime, an idea which lends itself to a great deal of discussion.

" Sec. 19.—(1) In case of the death of a patient absent from a retreat under licence, a statement of the cause of his death, with the name of any person present at the death, shall be drawn up and signed by a duly qualified medical practitioner, and copies thereof, duly certified in writing by the person in whose charge the patient had been placed, shall be by him transmitted to the coroner and to the registrar of deaths for the district, and to the clerk of the local authority, and to the person by whom the last payment was made for the deceased, or to one at least of the persons who signed the Statutory Declaration under section ten of the Habitual Drunkards Act, 1879."

Secs. 23, 24, and 25, give the modifications of the Act in its

application to Scotland, and sec. 26 similarly for Ireland makes certain modifications.

FIRST SCHEDULE (TO THE ACT).¹

Description of Offence.	Statute enacting Offence.
Being found drunk in a highway or other public place, whether a building or not, or on licensed premises - - - -	Licensing Act, 1872 (35 & 36 Vict. 94), s. 12.
Being guilty while drunk of riotous or disorderly behaviour in a highway or other public place, whether a building or not -	
Being drunk while in charge, on any highway or other public place, of any carriage, horse, cattle, or steam-engine - -	
Being drunk when in possession of any loaded firearms - - - -	
Refusing or failing when drunk to quit licensed premises when requested - -	Licensing Act, 1872 (35 & 36 Vict. c. 94), s. 18.
Refusing or failing when drunk to quit any premises or place licensed under the Refreshment Houses Act, 1860, when requested.	Refreshment Houses Act, 1860 (23 & 24 Vict. c. 27), s. 41.
Being found drunk in any street or public thoroughfare within the Metropolitan Police District, and being guilty while drunk of any riotous or indecent behaviour.	Metropolitan Police Act, 1839 (2 & 3 Vict. c. 47), s. 58.
Being drunk in any street, and being guilty of riotous or indecent behaviour therein.	Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), s. 29.
Being intoxicated while driving a hackney carriage.	Town Police Clauses Act, 1847 (10 & 11 Vict. c. 89), s. 61.
Being drunk during employment as a driver of a hackney carriage, or as a driver or conductor of a stage carriage in the Metropolitan Police District.	London Hackney Car- riages Act, 1843 (6 & 7 Vict. c. 86), s. 28.
Being drunk and persisting, after being re- fused admission on that account, in attempting to enter a passenger steamer -	Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 287.
Being drunk on board a passenger steamer, and refusing to leave such steamer when requested - - - -	
Being found in a state of intoxication and incapable of taking care of himself, and not under the care or protection of some suit- able person, in any street, thoroughfare, or public place.	Public Houses Acts Amendment (Scot- land) Act, 1862 (25 & 26 Vict. c. 35), s. 23.
Being in any street drunk and incapable and not under the care and protection of some suitable person.	Burgh Police (Scot- land) Act, 1892 (55 & 56 Vict. c. 55), s. 381.

¹ Mentioned in Sec. 2.

Description of Offence.	Statute enacting Offence.
Being drunk while in charge in any street or other place of any carriage, horse, cattle, or steam engine, or when in possession of any loaded firearms.	Burgh Police (Scotland) Act 1892 (55 & 56 Vict. c. 55), s. 380.
Being found in any shebeen drunk	Public Houses Acts Amendment (Scotland) Act, 1862 (25 & 26 Vict. c. 35), s. 19.
Refusing or neglecting when drunk to quit any premises or place licensed under the Refreshment Houses (Ireland) Act, 1860, when requested.	Refreshment Houses (Ireland) Act, 1860 (23 & 24 Vict. c. 107), s. 42.
Being drunk in any street or public thoroughfare within the Dublin police district, or being guilty, while drunk, of any riotous or indecent behaviour.	Dublin Police Act, 1842, (5 & 6 Vict. c. 24), s. 15.
Being found drunk in any street, square, lane, road, way, or other public thoroughfare or place.	Licensing (Ireland) Act, 1836 (6 & 7 Will. 4, c. 38), s. 12.
All similar offences in local Acts.	

The Schedule of offences is extremely interesting, and we quote it in full as containing a complete or fairly complete list of "offences while drunk" which may well be studied by police surgeons and others called in to decide whether a man is or was drunk at the time.

On this point and in connection with my definition of "drunk" in "Taylor," viz., "Drunkenness is the [not an] effect of alcohol [and certain other substances] upon a person" I would like to draw the reader's attention to the actual words of sec. 1 of the Act of 1898 above on p. 197. "If the Court is satisfied from the evidence that the offence was committed under the influence of drink—and my contention is that a medical man [or a policeman or other witness for that matter] is, or should rather, not be called upon to say whether a man was or was not drunk (in the common acceptance of the word) but simply to prove the fact (usually very easy) that he had drunk some intoxicating liquor—this, in my definition, is 'drunk,' and then it is for the Court to decide, after hearing all the evidence as to his manner, &c., whether the offender would have done what he did do, if he had not taken the liquor; if 'No, he would not,' then he was 'drunk within the meaning of the Act,' if 'Yes, he would,' then the Court decides that he was not 'drunk within the meaning of the Act.' This at any rate would throw the onus on the Court

and would do away with the mass of conflicting evidence, always given as to whether he was drunk or not in the ordinary acceptance of the term which on the above words of the section is quite irrelevant, for the Court has to decide whether the act was done under the 'influence' of drink, quite irrespective of the degree of that influence."

CHAPTER IX

ACTS RELATING TO PUBLIC HEALTH INCLUDING THE MEDICAL OFFICER OF HEALTH¹ AND OTHER MEDICAL OFFICERS WITH DIFFERENT NAMES BUT WITH NOT VERY DISSIMILAR DUTIES

SECTION I.—ACTS RELATING TO LOCAL GOVERNMENT.

It will make the plan of this chapter and the scheme of connection between the various Acts much more easily intelligible if I give first of all an introductory outline of local government in the Kingdom, and the way in which the present position of affairs has arisen.

I assume, perhaps without much serious justification, that from time immemorial the public health or more correctly, the health of the public or people has been an object of concern to rulers of nations [certainly the history of the Jews, with Moses as a law-giver, supplies us with a tolerably ancient example] and that from time to time in the early days of the history of our own nation and our own Parliament, Acts have been passed with a more or less specific intent in this direction. I have not been at the pains to unearth any of these earlier efforts; it suffices for my purpose to say, that by the middle of last century [strictly, 1848] *an Act for promoting public Health*” was passed, the preamble to which says “*that further and more effectual provision ought to be made for improving the sanitary condition of towns and populous places (11 & 12 Vic. c. 63).*” The words here used allow us to assume the previous existence of some “provision” for the purpose, and indeed the Act itself refers to some older Acts.

I make the further assumption that it was a common practice to place the execution of such Acts in the hands of the Secretary of State or of the Privy Council. It requires no great stretch of the imagination to believe that by 1871 the hands of the Secretary of State, and even of the Privy Council were getting pretty full; consequently in that year a Government Department was formed, the Act relating to which we may here deal with and get it out of the way.

¹ In subsequent pages spoken of by the well-known initials “M.O.H.”

SUBSECTION A.—CENTRAL OR DEPARTMENTAL ORGANISATION.

" 34 & 35 Vic. c. 70. *An Act for constituting a Local Government Board and vesting therein certain functions of the Secretary of State and Privy Council concerning the Public Health and Local Government, together with the powers and duties of the Poor Law Board, August 14, 1871.*

" *Whereas it is expedient to concentrate in one department of the Government as hereinafter provided the supervision of the laws relating to the public health, the relief of the poor, and local government; be it enacted . . .*"

Under this Act the Poor Law Board ceased to exist, all its powers and duties being transferred to and imposed upon the Local Government Board, together with the powers and duties of the Secretary of State and Privy Council as vested in, or imposed upon, them by the following Acts:—

PART I.

Powers and Duties of Secretary of State.

Subject.	Act.
Registration of Births, Deaths, and Marriages.	6 & 7 W. 4. c. 86.
Public Health - - - - -	7 W. 4 & 1 Vict. c. 22.
Local Government - - - - -	11 & 12 Vict. c. 63.
	21 & 22 Vict. c. 98.
	24 & 25 Vict. c. 61.
	26 & 27 Vict. c. 17.
Drainage. Sanitary Matters - - -	28 & 29 Vict. c. 75.
	29 & 30 Vict. c. 90.
	30 & 31 Vict. c. 113.
	31 & 32 Vict. c. 115.
	32 & 33 Vict. c. 100.
Baths and Washhouses - - - - -	9 & 10 Vict. c. 74.
	10 & 11 Vict. c. 61.
Public Improvements - - - - -	23 & 24 Vict. c. 30.
Towns Improvement - - - - -	10 & 11 Vict. c. 34.
Artizans and Labourers Dwellings - -	31 & 32 Vict. c. 130.
Returns. Local Taxation - - - - -	23 & 24 Vict. c. 51.
	And any Acts amending the said Acts, and conferring powers on the said Secretary of State.

PART II.

Powers and Duties of Privy Council.

Subject.	Act.
Prevention of Disease - - - -	11 & 12 Vict. c. 63. 18 & 19 Vict. c. 116. Section one, three, five, and six of 21 & 22 Vict. c. 97. 22 & 23 Vict. c. 3. 23 & 24 Vict. c. 77. 29 & 30 Vict. c. 90. 31 & 32 Vict. c. 115.
Vaccination - - - - -	30 & 31 Vict. c. 84. And any Acts amending the said Acts, and conferring powers on the said Privy Coun- cil.

The Act is of no further interest to us here, except to say that the President of the Local Government Board is a member of the Cabinet.

We may dismiss this aspect of the subject by drawing attention to the following facts, viz., that—

The health of Navy The health of Army Port sanitation	Is under the supreme control of	Naval Department. Army Department. Board of Trade Depart- ment.
The health of the Post Office and Telephone Em- ployés		Department of the Post- master General.
The health of scholars and teachers		Board of Education.
Workmen's Compensation Act (Industrial Dis- eases)		Home Office.

which seem to suggest the advisability of some concentration of medical services under a Minister of Health.

SUBSECTION B.—LOCAL ORGANISATION.

We may now turn to the other aspect of the question, and see how these supreme authorities manage, through local bodies, the execution of what we may broadly term Health Acts; in other words, delegate their authority so that its influence may be felt throughout every village and hamlet, and indeed home, in the kingdom.

This has been done almost entirely by three principal Acts (Municipal Corporations Act, 1882, Local Government Act, 1888, and Local Government Act, 1894), with some recent amending Acts and special ones applying to Scotland and Ireland, all of which I have felt it necessary to notice at greater or less length below. The general plan of all these Acts bearing on local government is to form a sort of unit in the shape of a "Parish Council"—a parish need not have more than 300; indeed, it may have less than 100 inhabitants (*vide* below, p. 208)—with certain local powers, and powers of appeal. By the grouping of some number, geographically convenient, of these units we get "District Councils" also with local—somewhat wider than those of the village council—powers, and powers of appeal: finally, by grouping of some number, again geographically convenient, of district and certain "borough¹ councils," we arrive at the largest bodies with widest powers—subject only to the supreme authorities mentioned above, viz., the County Councils.

N.B.—My *methods* of working the matter out are not, as a matter of fact, the actual ones by which the results were obtained, but the results themselves are the same and give a fair idea of how villages, districts, and counties are related to one another for "health" purposes. As a matter of chronology county councils were officially made before parish and district councils.²

For details we must now quote or give the sense of sections of the Acts themselves with comments.

SUBSECTION B. (I.)—COUNTY COUNCILS.

"*Local Government (England and Wales) Act, 1888 (51 & 52 Vic. c. 41. An Act to amend the Laws relating to Local Government in England and Wales, and for other purposes connected therewith. Aug. 13, 1888.*"

"*Sec. 1. A council shall be established in every administrative county as defined by this Act and be entrusted with the management of the administrative and financial business of that county.*

"*Sec. 2.—(1) The council of a county . . . shall . . . be in the like position in all respects as the council of a borough divided into wards . . .*"

POWERS OF COUNTY COUNCILS.

Sec. 3. Levying rates; borrowing money; buildings for assize courts, &c.; licences; asylums for paupers (vide Lunacy

¹ Borough Councils in general are for towns what county councils are for "administrative counties," but some few of them are merged as regards their powers in county councils.

² Parishes are probably older than counties, but they did not get an official channel for collective speech till later than the counties.

Section); reformatory and industrial schools; roads; fees allowed to inspectors, analysts, &c.; appointment, removal, and salary of public analysts; salary of coroner if payable out of county rate and election of county coroner (sec. 5). Sec. 14 covers coroners who were such in 1888 (*vide* Coroners, p. 99); execution of Acts relating to contagious diseases of animals; registration of rules of scientific societies under 6 & 7 Vic. c. 36.

Sec. 9. Certain powers in employing police.

Sec. 10. Local Government Board may make provisional orders transferring powers of any Government department to County Councils; but seems expressly to prevent the Local Government Board from transferring the powers of an urban or rural authority to a county council.

Sec. 11. Main roads under dual control of county council and district council.

Sec. 14. Pollution of rivers.

"Sec. 17.—(1) *The council of any county may, if they see fit, appoint and pay a medical officer of health, or medical officers of health, who shall not hold any other appointment or engage in private practice without express written consent of the council.*

"(2) *The county council and any district council may from time to time make and carry into effect arrangements for rendering the service of such officer or officers regularly available in the district of the district council, on such terms as to the contribution by the district council to the salary of the medical officer, or otherwise as may be agreed, and the medical officer shall have within such district all the powers and duties of a medical officer appointed by a district council.*

"(3) *So long as such arrangement is in force, the obligation of the district council under the Public Health Act, 1875, to appoint a medical officer of health shall be deemed to be satisfied without the appointment of a separate officer.*"

I take it that this section is and is intended to be a sort of half-way house between the M.O.H. who may do private practice, and the whole-time man of the future; in "districts" the part-timer has been the usual thing; it is probable that districts will become half or whole counties and the part-timer a whole-timer.

"Sec. 18. *Except where the Local Government Board, for reasons brought to their notice, may see fit in particular cases specially to allow it, no person shall hereafter be appointed the medical officer of health of any county or county district, or combination of county districts, or the deputy of any such officer, unless he be legally qualified for the practice of medicine, surgery, and midwifery.*

"(2) *No person shall after the first day of January, one thousand eight hundred and ninety-two, be appointed the medical officer of*

health of any county or of any such district or combination of districts, as contained, according to the last published census for the time being, a population of fifty thousand or more inhabitants, unless he is qualified as above mentioned, and also either is registered in the medical register as the holder of a diploma in sanitary science, public health, or State medicine under section twenty-one of the Medical Act, 1886, or has been during three consecutive years preceding the year one thousand eight hundred and ninety-two a medical officer of a district, or a combination of districts, with a population according to the last published census of not less than twenty thousand, or has before the passing of this Act been for not less than three years a medical officer or inspector of the Local Government Board."

I have referred to this clause in the chapter dealing with qualifications, p. 32.

"Sec. 19.—(1) *Every medical officer of health for a district in any county shall send to the county council a copy of every periodical report of which a copy is for the time being required by the regulations of the Local Government Board to be sent to the Board, and if a medical officer fails to send such copy the county council may refuse to pay any contribution, which otherwise the council would, in pursuance of this Act, pay towards the salary of such medical officer.*

"(2) *If it appears to the county council from any such report that the Public Health Act, 1875, has not been properly put in force within the district to which the report relates, or that any other matter affecting the public health of the district requires to be remedied, the council may cause a representation to be made to the Local Government Board on the matter."*

(By sec. 88 (c) these conditions are specifically made to apply to the County of London.)

Sec. 29. In cases of disputed powers The High Court of Justice to decide.

Part II. of the Act, certain boroughs made into counties for purposes of the Act. The new County of London causing the disappearance of the Metropolitan Board of Works.

Part III. deals with boundaries, and makes the Local Government Board a superior authority on this subject.

Part IV. deals with Finance, still with the Local Government Board as the superior authority.

The Act does not extend to Ireland and Scotland :

SUBSECTION B. (II.)—PARISH AND DISTRICT COUNCILS :

"*Local Government Act, 1894 (56 & 57 Vic. c. 73). An Act to make further provision for Local Government in England and Wales. March 5, 1894."*

" Sec. 1. There shall be a parish meeting for every rural parish and there shall be a parish council for every rural parish which has a population of three hundred or upwards: Provided that an order of the county council in pursuance of Part III. of this Act

" (a) Shall if the parish meeting of a rural parish having a population of one hundred or upwards so resolve, provide for establishing a parish council in the parish, and may with the consent of the parish meeting of any rural parish having a population of less than one hundred, provide for establishing a parish council in the parish ;

" (b) May provide for grouping . . . parishes under a common parish council, but with a separate parish meeting for every parish so grouped, so, however, that no parish shall be grouped without the consent of the parish meeting for that parish."

" Sec. 3.—(2) No person shall be disqualified by sex or marriage for being elected or being a member of a parish council."

[Women also may have votes for the parish councillors.]

POWERS AND DUTIES.

Sec. 5. The parish council took over some of the duties, &c., of the vestry ; power to elect overseers of the poor ; took over some of the powers and duties of these overseers (appeals *re* valuation for poor rate, county rate ; providing fire engines, &c., holding parish property for village green, allotments, recreation grounds, gardens, &c.).

Sec. 6.—(2) May make complaint or representation to higher authorities *re* unhealthy dwellings, obstructive buildings, allotments.

Sec. 7. —(1) Power to adopt any of the following Acts : Lighting and Watching Act, 1833 ; Baths and Washhouses Acts, 1846—1882 ; Burial Acts, 1852—1885 ; Public Improvements Act, 1860 ; Public Libraries Act, 1892.

Sec. 8. Power to provide or acquire buildings for public offices and meetings, &c., connected with parish business ; to acquire land for recreation ground and public walks ; to exercise over such the powers of an " urban authority " :

This section makes the parish council a " local authority " within the meaning of secs. 164, 183, 184, 186 of the Public Health Act, 1875, sec. 44 of the Public Health Amendment Act, 1890 ; enables it to utilise water supplies in the parish ; to deal with any . . . place containing or used for the collection of drainage, filth, stagnant water, &c. ; acquire rights of way for the benefit of the parish ; to hold property for the benefit of the parish ; let for a year any parish property ; sell or exchange any property or let it for more than a year with consent of L.G.B. ;

Sec. 10. To hire allotment land.

Sec. 13. Exercises powers over footpaths and to a limited extent over local roads.

Sec. 15. May have powers delegated to it by a district council under the Public Health Acts.

There are other powers scattered through these sections, for which I must refer the reader to the Act itself.

As regards powers of appeal, if things are not satisfactory there would seem to be a general power of individuals to appeal to a parish meeting, a parish meeting to a parish council, and of a parish council to a county council or to the Local Government Board itself if the district or county council do not satisfy the needs and wishes of the parish council or try to impose restraints on it of which it does not approve.

" Sec. 21. *District Councils:*

" (1) *Urban sanitary authorities shall be called urban district councils . . . but nothing in this section shall alter the style or title of the corporation or council of a borough.*

" (2) *For every rural sanitary district there shall be a rural district council.*

[" Sec. 25.—(1) . . . *rural district councils shall be the successors of the rural sanitary authority.*"] "

PART III. OF THE ACT.—AREAS AND BOUNDARIES.

Sec. 36. County council to decide them and all disputed questions as to what sanitary district any parish belongs, so as to get as far as possible each parish into a single sanitary district, *i.e.*, without division of a parish into two or more sanitary districts, and each sanitary division into a single county, *i.e.*, without division into two or more counties.

SUBSECTION B. (III.)—BOROUGH COUNCILS.

" 45 & 46 Vic. c. 50. *An Act for consolidating, with Amendments, enactments relating to Municipal Corporations in England and Wales.* Aug. 18, 1882.

" *Whereas divers bodies corporate at sundry times have been constituted in the cities, towns, and boroughs of England and Wales, to the intent that the same might for ever be and remain well and quietly governed: . . . it is expedient that all the Acts* " [relating to such corporations] "*be reduced to one Act.*"

Such is the Title and Preamble of the only Act that need be mentioned to show how large, very populous, areas known as

towns, cities, &c., are governed as regards public health in every conceivable meaning of the words. Borough and town councils take the place of district and county councils and a mayor or lord mayor and aldermen, &c., take the place of chairman and simple councillors respectively. With such details, however, we are not concerned, Suffice it to say that some cities—*e.g.*, London—are counties in themselves, and the "Borough Council" then becomes a "County Council," and the M. O. H. is responsible to such councils just as he is to the district councils.

I may perhaps be permitted to say that a seat on any of these councils, and especially the office of mayor, should be the honourable ambition of any medical man, though it has to be remembered that such is not open to him while he occupies the position of a paid medical officer under the corporation.

COMMENTS.

These extracts are, I think, sufficient to show the substantial accuracy of my introductory statement, and also to enable one to get a general idea of local [grades of] government from parish meetings, through parish councils, up to district councils, and county councils, finally up to the Local Government Board.

So far as public medical officers are concerned, the extracts show their conditions of appointment and the Boards to whom they must look for their salaries. Their actual duties must be sought in the next section of this chapter and in the Acts themselves.

SECTION I. (*continued*)—LOCAL GOVERNMENT IN SCOTLAND.

The system of Local Government in Scotland is in reality not very different from that sketched out above for England, the differences are more in names and somewhat different methods of legal procedure rather than in aims and results. Thus "57 & 58 Vic. c. 58. *An Act to establish a Local Government Board for Scotland and make further provision for Local Government in Scotland, and for other purposes*" bears a strong likeness to the similar Act for England passed in 1871. It has for medical practitioners one strong point of difference, in that by sec. 4 "one of the members shall be a registered medical practitioner who is also registered on the Medical Register as the holder of a diploma in sanitary science, public health, or State medicine under sec. 21 of the Medical Act, 1886." It establishes parish councils on very much the same lines as parish councils in England, differing only in the Scotch terms of nomenclature, but with almost identical

(in substance) powers over local affairs and powers to stir up or appeal to higher authorities.

We have also "60 & 61 Vic. c. 38. *An Act to consolidate and amend the Laws relating to Public Health in Scotland.* Aug. 6, 1897," sec. 12 of which says, "*The following shall respectively be the local authority to execute this Act within the districts hereunder stated.*

1. Town councils—very nearly equal English borough councils.
2. District committees—very nearly equal district councils.
3. County councils.

Sec. 15 says, "*The local authority shall appoint a medical officer or medical officers who shall be called Medical Officer of Health,*" and the conditions of his appointment are almost identical with those holding in England.

SECTION I. (*continued*)—LOCAL GOVERNMENT IN IRELAND.

Here again we have a Local Government Board, county councils, borough councils, and district councils, urban and rural, of similar areas as in England. I cannot find in the Irish Acts parish councils mentioned.

"35 & 36 Vic. c. 69. *An Act for constituting a Local Government Board in Ireland and vesting therein certain functions of the Lord Lieutenant, the Privy Council, and the Chief Secretary to the Lord Lieutenant, concerning the Public Health and Local Government, together with the powers and duties of the Commissioners for administering the laws for the relief of the poor in Ireland.* Aug. 10, 1872.

"Sec. 3. *The Local Government Board shall consist . . . one of whom shall be qualified in like manner as the Medical Commissioner under the Medical Charities Act,*" and then "61 & 62 Vic. c. 37. *An Act for amending the Law relating to Local Government in Ireland and for other purposes therewith.* Aug. 12, 1898.

"Sec. 1. *A council shall be established in every administrative county*" with power (sec. 14) to elect and control coroners.

Sec. 22. Establishes urban and rural district councils in language practically identical with the English Act, with practically identical powers in health matters as the corresponding English councils.

I conclude this section with the following list of Acts for reference.

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| 5 & 6 Will. 4. c. 76 | .. Municipal Corporations Act (not dealt with). |
|----------------------|---|

- 11 & 12 Vic. c. 63, 1848 .. Established General Board of Health.
 34 & 35 Vic. c. 70, 1871 .. Established Local Government Board,
 England (noted in text, p. 203.)
 35 & 36 Vic. c. 69, 1872 .. Established Local Government Board
 for Ireland (noted in text, p. 211.)
 45 & 46 Vic. c. 50, 1882 .. Municipal Corporations, p. 209.
 47 Vic. c. 12, 1884 .. Made Local Government Board "con-
 forming" authority of By-laws of
 any council (not noted in text).
 47 & 48 Vic. c. 74, 1884 .. Attorney-General to consent to pro-
 ceedings for penalty (not noted).
 48 & 49 Vic. c. 53, 1885 .. Defines to some extent the degree to
 which a councillor or officer of
 council may be momentarily inter-
 ested in contracts, &c., (not noted).
 51 & 52 Vic. c. 41, 1888 .. Local Government Act (noted, p. 205).
 53 Vic. c. 3, 1890 .. Legalised the association of county
 councils (not noted).
 56 & 57 Vic. c. 73, 1894 .. Local Government Act (noted, p. 207).
 57 & 58 Vic. c. 58, 1894 .. Local Government (Scotland) Act
 (noted, p. 210).
 59 Vic. c. 1, 1896 .. An Act to remove difficulties at the
 Election of Councillors (not noted).
 59 Vic. c. 9, 1869 .. Local Government Board to act as a
 settler of differences (Arbitration,
 &c.); not noted.
 60 & 61 Vic. c. 38, 1897 .. Local Government Board for Scotland
 (noted, p. 211).
 61 & 62 Vic. c. 37, 1898 .. County councils, Ireland (noted, p. 211).
 63 & 64 Vic. c. 13, 1900 .. County council elections (not noted).
 3 Edw. 7, c. 9, 1903 .. County councils may promote Bills
 (not noted).
 3 Edw. 7, c. 15, 1903 .. Transference of power from Local
 Government Board to county coun-
 cils (not noted).

CHAPTER IX (continued)

SECTION II.

Sketch of the origin and development of the Medical Officer of Health, with an account of his present position and the L.G.B regulations as to his emoluments and duties.

THE ORIGIN OF M. O. H.

" 11 & 12 Vic. c. 63. *An Act for promoting Public Health.* Aug. 31, 1848." Constituted (sec. 4) out of the First Commissioner of Woods and Forests and two other people " The General Board of Health " and (sec. 12) out of borough councils and combinations of them, " Local Boards of Health," and then sec. 10. runs : " *The Local Board of Health may from time to time, if they shall think fit, appoint a fit and proper person being a legally qualified Medical Practitioner or a member of the Medical Profession to be and to be called the Officer of Health, who shall be removable by the said Local Board and shall perform such duties as the General Board shall direct.*"

The Act provided that the General Board " shall " provide inspectors and some other officers, but only uses " may " for the officer of health. However, I presume some were appointed, and if so, they were, so far as I can ascertain, the first medical officers of health.

Between 1848 and 1892 some twenty or more Acts of Parliament were passed bearing on various phases of the powers and duties of the General and Local Boards of Health and of the " officers of health " (Those who are interested will find these Acts enumerated in sec. 60 of the Public Health Act of 1872. They can also be dug out of my general list on p. 229, but they are of no further interest here).

" In 1872 35 & 36 Vic. c. 79. *An Act to amend the Law relating to Public Health.* Aug. 10, 1872 " was passed.

" Sec. 3. *From and after the passing of this Act England shall be divided into sanitary districts, to be called respectively: (1) Urban sanitary districts, and (2) rural sanitary districts, and such . . . shall . . . be subject to the jurisdiction of local authorities, in*

this Act called urban sanitary authorities, and rural sanitary authorities invested with the powers in this Act mentioned." We thus see Local Boards of Health superseded by sanitary authorities these have in turn been superseded by district and county councils (*vide* p. 209).

" Sec. 10. It shall be the duty of every urban sanitary authority to appoint from time to time a medical officer of health, being a legally qualified medical practitioner.

" It shall be the duty of every rural sanitary authority to appoint from time to time a medical officer or officers of health, being qualified as aforesaid . . . the appointment of medical officers of health . . . first made shall be for a period not exceeding five years."

Here we see the " may " of 1848 replaced by " shall," and the full title, Medical Officer of Health, apparently used for the first time.

In the interval between 1848 and 1872 The Medical Act (*q.v.*) and the Local Government Board Act (*q.v.*) had been passed so that " legally qualified medical practitioner " probably had rather a different meaning in the two Acts, and the " Local Government Board " had taken the place of the " General Board of Health."

DEVELOPMENT OF THE M. O. H.

It might be urged that he sprang full-blown out of the 1848 Act, and so in a sense he did, having to perform " such duties as the General Board shall direct," but there can be no doubt that his original position was a somewhat inferior one without much attaching prestige or influence. Public opinion regarding his value and importance has steadily risen since those early days, and authorities, particularly the L.G.B. and county councils, have become steadily more exacting as to his qualifications and the duties and time demanded of him. The duties have been laid upon him by the increasing variety of subjects (with their subdivisions and incidentals) dealt with by the numerous Acts of Parliament relating to branches of Public Health for which he and his staff of inspectors are made the responsible executive officers.

To illustrate this statement I would draw the reader's attention to the language of the following extracts regarding the appointment.

" 38 & 39 Vic. c. 55. An Act for consolidating and amending the Acts relating to Public Health in England. Aug. 11, 1875."

" Sec. 189. Every urban authority shall from time to time appoint fit and proper persons to be medical officer of health, &c. . . .

"Sec. 190. Every rural authority shall from time to time appoint fit and proper persons to be medical officer of health, &c. . . ."

"Sec. 191. A person shall not be appointed medical officer of health under this Act unless he is a legally qualified medical practitioner; and the Local Government Board shall have the same powers as it has in the case of a district medical officer of a union, with regard to the qualification, appointment, duties, salary, and tenure of office of a medical officer of health . . . any portion of whose salary is paid out of moneys voted by Parliament, and may by order prescribe the qualifications and duties of other medical officers of health appointed under this Act.

"The same person may . . . be appointed medical officer of health . . . for two or more districts. Any district medical officer of a union may . . . be appointed a medical officer of health; and a medical officer of health may exercise any of the powers with which an inspector of nuisances is invested by this Act." A deputy may be appointed for illness or incapacity.

"9 Edw. 7, c. 44. An Act . . . to make further provision with respect to the appointment and duties of county medical officers of health . . . Dec. 3, 1909."

Sec. 68 runs—

"(1) Every county council shall appoint a medical officer of health . . .

"(2) The duties . . . shall be such as may be prescribed by general orders of the Local Government Board and such other duties as may be assigned to him by the county council.

"(4) The medical officer of health of a county shall . . . have the same powers of entry on premises as . . . a medical officer of health of a district by or under any enactment.

"(5) A medical officer of health of a county shall be removable by the county council with the consent of the Local Government Board and not otherwise.

"(6) A medical officer of health of a county shall not be appointed for a limited period only" [except as a temporary arrangement].

(7) He shall "not engage in private practice and shall not hold any other public appointment without the express written consent of the Local Government Board."

We may also refer to the Local Government Act, 1888, on p. 207, where it is laid down that an M. O. H. must have a diploma in public health or its equivalent.

The following regulations are worth inserting here, as showing the importance that the Gen. Med. Council attaches to proper instruction in the work of an M. O. H.

PUBLIC HEALTH.

RESOLUTIONS AND RULES ADOPTED BY THE GENERAL MEDICAL COUNCIL ON DECEMBER 2, 1902, MAY 29 AND NOVEMBER 30, 1903, MAY 31, 1904, MAY 25 AND 26, 1905, MAY 26, 1910, AND DECEMBER 1, 1911 FOR DIPLOMAS IN PUBLIC HEALTH.

I.—The Council, having regard to the terms of Section 18 of the *Local Government Act* (1888), and of Section 54 of the *Local Government (Scotland) Act* (1889) : and observing that under those sections special privilege is to be accorded to the holders of the Diplomas granted under Section 21 of the *Medical Act* (1886), and therein described as Diplomas in Sanitary Science, Public Health, or State Medicine, thinks it essential to declare, with regard to its own future action under Section 21 of the *Medical Act* (1886), that it will not consider Diplomas to “deserve recognition in the *Medical Register*” unless they have been granted under such conditions of education and examination as to ensure (in the judgment of the Council) the possession of a distinctively high proficiency, scientific and practical, in all the branches of study which concern the Public Health ; and the Council, in forming its judgment on such conditions of education and examination, will expect the following *Rules* to have been observed :—

Rule 1. The curriculum for a Diploma in Sanitary Science Public Health, or State Medicine shall extend over a period of not less than nine calendar months.

Rule 2. Every Candidate for a Diploma in Sanitary Science, Public Health, or State Medicine shall have produced satisfactory evidence that, after obtaining a registrable Qualification, which should be registered before admission to examination for the Diploma, he has received practical instruction in a Laboratory or Laboratories, British or Foreign, approved by the Licensing Body granting the Diploma, in which Chemistry, Bacteriology, and the Pathology of the Diseases of Animals transmissible to Man are taught.

Note.—The Laboratory instruction shall cover a period of not less than four calendar months, and the Candidate shall produce evidence that he has worked in the Laboratory for at least 240 hours, of which not more than one-half shall be devoted to Practical Chemistry. The Laboratory course should be so arranged as to lay special stress on work which bears most directly on the duties of a Medical Officer of Health.

Rule 3. Every Candidate shall have produced satisfactory evidence—

Either (1) that, after obtaining a registrable Qualification, he has during six months been diligently engaged in acquiring a practical knowledge of the duties, routine and special, of Public Health Administration, under the personal supervision of—

(a) In England and Wales, the Medical Officer of Health of a County or of a single or combined Sanitary District having a population of not less than 50,000, or a Medical Officer of Health devoting his whole time to Public Health work ; or—

(b) In Scotland, a Medical Officer of Health of a County or Counties, or of one or more Districts having a population of not less than 30,000 ; or—

(c) In Ireland, a Medical Superintendent Officer of Health of a District or Districts having a population of not less than 30,000 ; or—

(d) In the British Dominions outside the United Kingdom, a

Medical Officer of Health of a Sanitary District having a population of not less than 30,000, who himself holds a registrable Diploma in Public Health ; or—

(e) A Medical Officer of Health who is also a Teacher in the Department of Public Health of a recognised Medical School ; or—

(f) A Sanitary Staff Officer of the Royal Army Medical Corps having charge of an Army Corps, District, Command, or Division recognised for this purpose by the General Medical Council ; or—

(g) An Assistant Medical Officer of Health of a County, or of a single Sanitary District having a population of not less than 50,000, provided the Medical Officer of Health of the County or District in question permits the Assistant Officer to give the necessary instruction and issue certificates :

Or (2) that he has himself held for a period of not less than three years an appointment as Medical Officer of Health of a Sanitary District within the British Dominions, and having a population of not less than 15,000.

Note 1.—The Certificate for the purpose of *Rule 3 (1)* must include testimony that the candidate has attended under the supervision of the person certifying on not less than 60 working days.

Provided that if the candidate has

(i) produced satisfactory evidence that he has attended a course or courses of instruction in sanitary law, vital statistics, epidemiology, school hygiene, and other subjects bearing on Public Health Administration, given by a Teacher or Teachers in the Department of Public Health of a recognised Medical School ; or

(ii) produced evidence that he has been a resident Medical Officer in a Hospital for Infectious Diseases containing not less than 100 beds, during a period of three months,

the period during which he has been engaged in acquiring practical knowledge of his duties under this *Rule* may be reduced to three months, to include an attendance on at least 30 working days.

Note 2.—For the Districts, Commands, and Divisions that have been recognised by the Council under *Rule 3 (1) (f)* see below.

Rule 4. Every Candidate shall have produced evidence that, after obtaining a registrable Qualification, he has during three months attended at least twice weekly the practice of a Hospital for Infectious Diseases, at which he has received instruction in the Methods of Administration.

Note 1.—Methods of Administration shall include the methods of dealing with patients at their admission and discharge, as well as in the wards, and the Medical Superintendence of the Hospital generally.

Note 2.—In the case of a Medical Officer of the Royal Army Medical Corps, a certificate from a Principal Medical Officer under whom he has served, stating that he has during a period of at least three months been diligently engaged in acquiring a practical knowledge of Hospital Administration in relation to Infectious Diseases, may be accepted as evidence under *Rule 4*.

. The *Rules 2, 3, 4*, as to study, shall not apply to Medical Practitioners registered, or entitled to be registered, on or before January 1, 1890.

Rule 5. The Examination shall have been conducted by Examiners specially qualified ; it shall have extended over not less than four days, one of which shall have been devoted to practical work in a Laboratory, and one to practical examination in, and reporting on, subjects which fall within the duties of a Medical Officer of Health, including those of a School Medical Officer.

II.—The Council shall, from time to time, appoint an Inspector

or Inspectors of Examinations in Public Health, with special instructions to report to the Council whether the Examination of each Licensing Body does or does not afford evidence, on the part of Candidates passing such Examination, of the possession of a distinctively high proficiency, scientific and practical, in each and all of the branches of study which concern the Public Health.

List of the Districts, Commands, and Divisions that have been recognised by the Council under *Rule 3 (f)* :—

Aldershot.	Indian Divisions, viz. :—
Salisbury Plain.	1st (Peshawar).
Southern and South-Eastern.	2nd (Rawalpindi).
Western.	3rd (Lahore).
Dublin and Belfast.	4th (Quetta).
Cork.	5th (Mhow).
Chatham and Woolwich.	6th (Poona).
Home.	7th (Meerut).
Eastern.	8th (Lucknow).
North-Eastern and North-Western.	9th (Secunderabad).
Scottish.	Burma.
Gibraltar Command.	
Malta Command.	

PRESENT DUTIES OF AN M. O. H.

These consist now in looking after every matter relating to the general health and well being of the community. In the latter part of this chapter I shall deal at greater or less length with the actual Acts of Parliament under which he works under various headings—Nuisances, Food, Water, Infectious Diseases, &c., &c. I now quote *in extenso* a memorandum from, and the Statutory Rules and Orders of, the L.G.B., dated December, 1910, which show very excellently the present position of the office.

MEMORANDUM OF THE LOCAL GOVERNMENT BOARD IN REGARD TO APPOINTMENTS OF MEDICAL OFFICERS OF HEALTH.

1. *Appointment of Medical Officers of Health.*

The Board fully recognise the excellent work which has been done by many Medical Officers of Health who have also been engaged in private practice. Their experience has shown them, however, that it is desirable, wherever practicable, that the person holding the office of Medical Officer of Health should not be so engaged. The private interests of a general practitioner are apt to conflict with the public duties to be performed by a Medical Officer of Health, and it is unnecessary to specify instances in which such conflict may arise. Moreover, an officer whose whole time is given to public appointments is more likely than a general practitioner to possess the special qualifications in public health which the duties increasingly thrown upon Medical Officers of Health render desirable, and he has greater opportunities of making himself familiar with the law and practice of public health. Parliament has recognised the necessity of special qualification in public health by making it

incumbent on County Councils and on the Councils of districts with a population of over 50,000 to appoint as Medical Officer of Health a medical man who, in addition to the ordinary qualifications, possesses a diploma in public health or sanitary science. The Medical Officer of Health to a County Council is debarred by Section 68 (7) of the Housing and Town Planning &c. Act, 1909, from engaging in private practice, and may not hold other public appointments without the Board's consent.

The Councils of nearly all the County Boroughs and of many other large districts have, with great benefit to the population whose public health they protect, appointed as Medical Officers of Health men with special qualification and experience in public health matters, and have made it a condition that they shall not engage in private practice.

2. Combination of Districts for the Appointment of a Medical Officer of Health.

In the case of smaller districts the advantage of obtaining the services of a man who is not engaged in private practice may frequently be secured, either by combination with neighbouring districts for the appointment of a joint Medical Officer of Health, or by the combination of other public appointments with that of Medical Officer of Health. The Board trust that on the occurrence of a vacancy, Councils who are not so served will consider whether they can by some such means secure the services of a Medical Officer of Health who is not in private practice.

Under Section 191 of the Public Health Act, 1875, two or more councils may agree to appoint the same Medical Officer of Health, and under Section 286 of the same Act it is open to any Council to represent to the Board that the combination of two or more districts for the appointment of a Medical Officer of Health would diminish expense or otherwise be to the advantage of the districts, and the Board may make an Order giving effect to such a representation. Under these provisions several combinations have been made with advantage to the districts concerned.

The Board's experience of these combinations is that they have secured for the districts included in them a more skilled and a more unfettered supervision in public health matters than can be obtained by the smaller districts which have not entered into such combinations, and generally at no increase of cost; in fact, the contribution to a joint salary may sometimes be less than the amount which should be paid to a separate Medical Officer of Health. This experience has led the Board to urge such combinations in other cases. They have found, however, that local authorities frequently raise two objections to combinations: the first that they would thereby lose full control over their officer, and the second that they would not be able to command his services in case of emergency as he might live at some distance from their district, or might be engaged in urgent work in another district. The first objection is not one which can in the Board's opinion be supported. Although the same person acts for several districts, he is also Medical Officer of Health for each and is subject to the provisions in the Board's General Order prescribing the duties of Medical Officers of Health as applied by the special order relating to the joint district. The second objection may occasionally, though exceptionally, have some weight, but it should be remembered that a private practitioner is more likely to have other urgent calls on his time than a Medical Officer

of Health who gives his whole time to his work. And the disadvantages of non-residence are, in the Board's view, outweighed by the gain of impartiality and freedom from private ties and interests.

The Board recognises that some of the combined districts which have been formed in earlier years are somewhat too extensive for the increased duties now required of a Medical Officer of Health, and, as opportunity has occurred, the Board has favoured the splitting up of such districts into more compact areas. This policy is assisted by the adoption of the second method referred to above for securing the services of whole time Medical Officers of Health; that of allowing them to accept other public offices.

3. Offices which may be combined with that of Medical Officer of Health.

The office of Assistant School Medical Officer in counties, or School Medical Officer in small autonomous education areas under the Education Committee may, with advantage, be combined with the office of Medical Officer of Health in a county district. Both the Board and the Board of Education have pointed out the desirability of co-ordinating these two services by the appointment of the same officer in both capacities. In the majority of cases where the Education Authority is the Council appointing the Medical Officer of Health this has been done, and the Board trusts that the authorities which have not yet adopted this course will, when opportunity presents itself, follow this example. In some other cases County Councils have with advantage appointed as Assistant School Medical Officers the Medical Officers of Health appointed by district councils.

It is in the Board's opinion very desirable that the office of Superintendent of the Isolation Hospital should, whenever practicable, be held by the Medical Officer of Health. The Medical Officer of Health receives notifications of all infectious diseases, and he should be in a position, on receipt of a notification, to decide whether the case should be removed to the hospital, and if in his opinion it should, to have it removed without the necessity of a consultation.

The Home Secretary appoints to the office of Certifying Factory Surgeon, and both he and the Board favour its combination with the office of Medical Officer of Health.

Other public offices which the Medical Officer of Health may be allowed to hold are those of Police Surgeon, Public Vaccinator, District Medical Officer, and Medical Officer of the Workhouse.

He may also be allowed, where qualified, to make analyses and bacteriological examination of water, and bacteriological examinations for the diagnosis of disease.

4. Salary of Medical Officer of Health.

The salary offered to a Medical Officer of Health who devotes his whole time to public health work should, in the Board's view, be sufficient to attract men with good qualifications, and to retain their services. The Medical Officer of Health should not be placed in a position of inferiority in this respect to other medical men in the district. Where the several offices to be held by the Medical Officer of Health do not afford sufficient remuneration to justify

an authority in requiring that the officer should give his whole time to his public work, it may still be possible to impose the condition that he shall not engage in general practice, if he is allowed to supplement his official income by acting as consultant in cases of infectious diseases, by instructing pupils in sanitary science, and by undertaking any other private work not involving the ordinary work of a general medical practitioner.

The salary to be paid to a Medical Officer of Health who devotes only part of his time to the office and engages in private practice, will naturally depend upon varying circumstances of each district. It is clearly desirable that the amount of salary should be fixed with a view to the increasingly onerous and important duties which a Medical Officer of Health is called upon to perform. It is not sufficient merely that a medical man is found who is prepared to accept the salary offered, it is more important that the salary should be such that it will be worth the while of a capable man to accept it, and to give a sufficient amount of his time to the duties.

5. Duties of Medical Officer of Health.

The Board have not infrequently been asked to define the scope of the duties of Medical Officers of Health in connection with the analysis of water, the visiting of cases of infectious diseases, and other matters.

With regard to the analysis of water, the Board consider that it is the duty of a Medical Officer of Health to inform himself of the character of the water supply of his district and for this purpose to use, when necessary, such minor tests of the water as may suffice to indicate whether further and quantitative analysis or examination is required. It forms, however, no part of his duties, as prescribed by the Board's General Order, to make a quantitative analysis of water. When such an analysis is necessary, the Board is of opinion that the Council should employ any competent analyst to make it and pay him a reasonable fee for doing so. If the Medical Officer of Health possesses the necessary qualifications, and if the time required would not interfere with the efficient discharge of his duties, the Board sees no reason why the Council should not make a special arrangement with him to undertake this analytical work. But the officer's remuneration for such special services should not be included in this salary as Medical Officer of Health as no part of such special remuneration would be repayable out of the County Funds.

With regard to the visitation of cases of infectious diseases, the General Order does not prescribe, and the Board does not consider it necessary, that a Medical Officer of Health should visit every such case. Infectious diseases such as scarlet fever, enteric fever, and diphtheria, however, can be kept under control only by active supervision of all notified cases and by endeavours to discover all cases connected with them, whether carriers or sick persons, which may be able to spread infection. To this end a Medical Officer of Health should make each notified case the starting point for systematic and thorough investigation into possible sources of infection. In conducting such investigations a Medical Officer of Health will bear in mind that the examination of patients in their own homes can be made only with the consent of the patient or of those in charge of the patient. If a medical practitioner is in attendance, his co-operation should always be sought.

STATUTORY RULES AND ORDERS, 1910.
No. 1293.

DISTRICT COUNCIL, ENGLAND.

Officers.

THE SANITARY OFFICERS (OUTSIDE LONDON) ORDER, 1910.
DATED DECEMBER 13, 1910.

To the Councils of the several Municipal Boroughs and other Urban Districts in England and Wales ;—

To the Councils of the several Rural Districts in England and Wales ;—

And to all others whom it may concern.

We, the Local Government Board, hereby order that the provisions of this Order shall, unless We otherwise direct, henceforward apply to every Medical Officer of Health appointed by the Council (hereinafter referred to as " the Council ") of every County Borough and County District (hereinafter referred to as " the District ").

PART I.

With respect to the appointment, tenure of office, salary and duties of every Medical Officer of Health one half of whose salary is intended to be payable by a County Council or County Councils in pursuance of Section 24 of the Local Government Act, 1888, or by the Council of a County Borough in pursuance of the said Section and sub-section (1) of Section 34 of the said Act, We hereby Order as follows :—

Appointment.

Article I.—Before any appointment is made under this Order a Statement shall be submitted to Us containing the particulars mentioned in the Form set forth in the Schedule to this Order, and such other particulars as may from time to time be required by Us :

Provided that where any such Statement has been submitted to Us under any of the above-cited Orders, or under this Order, no further Statement under this Article shall be necessary, unless the Council, on any appointment, propose to alter the district or the salary, or the time which the officer is to give to his duties, or unless We require a fresh Statement to be submitted.

Article II.—When Our approval has been given to the proposals contained in the Statement so submitted, the Council shall proceed to the appointment of the Officer accordingly: Provided that if the Council make the appointment before submitting such a Statement as herein-before mentioned, the appointment shall be valid if approved by Us.

Article III.—Before any appointment is made under this Order an advertisement specifying the District for which the appointment is to be made, together with the amount of the salary proposed to be assigned, shall be inserted in some public newspaper or newspapers circulating in the District of the Council at least seven days before the date on which it is proposed that the appointment shall be considered by the Council: Provided that in any special case in which the Council may be of opinion that such an advertisement is not necessary, the appointment may, with Our consent, be made without such advertisement.

Article IV.—Every Officer shall be appointed by a majority of the Members present and voting on the question, at a Meeting of the Council consisting of more than three Members, or by three Members, if no more are present. The appointment shall be subject to Our sanction. The appointment may be made without limit of time or for a specified term, and in cases in which the appointment is for a term the Council shall specify in the Resolution making the appointment, or in a subsequent Resolution, the term for which the appointment is made.

Article V.—Every appointment shall, within seven days after it is made, be reported to Us by the Clerk to the Council.

Article VI.—Upon the occurrence of a vacancy, the Council shall proceed to make a fresh appointment.

Provided that, if the Council deem it advisable that the vacancy should not be filled up forthwith, they may appoint a person to act temporarily, subject to Our approval.

Article VII.—Whenever notice has been given to terminate an appointment the Council may proceed to make a fresh appointment to take effect from such termination.

Article VIII.—If any Officer be temporarily prevented by sickness or accident, or other sufficient reason, from performing his duties, the Council may appoint a qualified person to act as his temporary substitute, and may pay to such person a reasonable remuneration for his services ; and it shall not be necessary in any such case that the foregoing Articles of this Order should be complied with, nor shall Our approval be required to any such appointment, but no remuneration shall be paid in any such case for a longer period than six weeks unless Our consent be obtained.

Tenure of Office.

Article IX.—Every Officer appointed to hold office without limit of time shall continue to hold office until he dies, or resigns, or is removed by the Council with Our assent, or is removed by Us, or is proved to be insane by evidence which We shall deem sufficient.

Article X.—Subject to the provisions of this Order, every Officer appointed for a specified term shall, on the expiration of that term, unless the Council three months prior to the expiration of the term by Resolution otherwise determine, continue to hold office from year to year until he dies, or resigns, or is removed by the Council with Our assent, or is removed by Us, or is proved to be insane by evidence which We shall deem sufficient ; and no further re-appointment of the officer by the Council and no further approval of his appointment on Our part shall be required unless the terms of the appointment are altered :

Provided always that the Council, after the expiration of the specified term, may terminate the appointment by giving to the officer three months' written notice of their intention to do so and such notice shall take effect at the same period of the year as that at which the original term expired and not otherwise. A copy of such notice shall be sent to Us at the same time as the notice is sent to the Officer.

Article XI.—The Council may at any time, by Resolution, and with Our consent, appoint an Officer who holds an appointment for a specified term to hold office without limit of time.

Article XII.—The Council may, at their discretion, suspend any Officer from the discharge of his duties, and shall, in case of every such suspension, forthwith report the same, together with

the cause thereof, to Us; and if We remove the suspension of the Officer by the Council, he shall forthwith resume the performance of his duties.

Article XIII.—Where any change in the extent of the District of any Officer, or in his duties or salary, is deemed necessary by the Council or by Us, and he declines to acquiesce therein, the Council may, with Our consent, but not otherwise, and after six months' notice in writing, signed by their Clerk, given to the Officer, determine his office.

Article XIV.—A person shall not be appointed who does not agree to give at least one month's notice previous to resigning the office, or to forfeit such sum as may be agreed upon as liquidated damages.

Salary.

Article XV.—The Council shall pay to every Officer such salary as may be approved by Us:

Provided that the Council may, with Our approval, pay to any Officer a reasonable remuneration on account of extraordinary services, or other unforeseen or special circumstances connected with his duties or the necessities of the District or Districts for which he is appointed.

Article XVI.—The salary of every Officer shall be payable up to the day on which he ceases to hold office and no longer, subject to any deduction which the Council may be entitled to make in pursuance of Article XIV. of this Order; and in case he dies whilst holding such office, the proportion of salary (if any) remaining unpaid at his death shall be paid to his personal representatives:

Provided that an Officer who is suspended, and who, without the previous removal of such suspension, resigns or is removed under Article IX. or Article X. of this Order, shall not be entitled to any salary from the date of such suspension.

Article XVII.—The salary assigned to every Officer shall be an annual salary payable in four equal instalments, on the Thirty-first day of March, the Thirtieth day of June, the Thirtieth day of September, and the Thirty-first day of December in each year; but the Council may pay to him on account at the expiration of every calendar month such proportion of his annual salary as they think fit.

Article XVIII.—All salaries shall be considered as accruing from day to day, and be apportionable in respect of time accordingly, in pursuance of the provisions of the Apportionment Act, 1870.

Duties of Medical Officer of Health.

Article XIX.—The following shall be the duties of the Medical Officer of Health in respect of the District for which he is appointed; or if he is appointed for more than one District, then in respect of each District:—

- (1) He shall inform himself as far as practicable respecting all influences affecting or threatening to affect injuriously the public health within the District.
- (2) He shall inquire into and ascertain by such means as are at his disposal the causes, origin, and distribution of diseases within the District, and ascertain to what extent the same have depended on conditions capable of removal or mitigation.

- (3) He shall by inspection of the District, both systematically at certain periods, and at intervals as occasion may require, keep himself informed of the conditions injurious to health existing therein.
- 4) He shall be prepared to advise the Council on all matters affecting the health of the District, and on all sanitary points involved in the action of the Council; and in cases requiring it, he shall certify, for the guidance of the Council or of the Justices, as to any matter in respect of which the Certificate of a Medical Officer of Health or a Medical Practitioner is required as the basis or in aid of sanitary action.
- (5) On receiving information of the outbreak of any infectious or epidemic disease of a dangerous character within the District, he shall visit without delay the spot where the outbreak has occurred, and inquire into the causes and circumstances of such outbreak, and in case he is not satisfied that all due precautions are being taken, he shall advise the persons competent to act as to the measures which appear to him to be required to prevent the extension of the disease and shall take such measures for the prevention of disease as he is legally authorised to take under any Statute in force in the District or by any Resolution of the Council.
- (6) Subject to the instructions of the Council, he shall direct or superintend the work of the Inspector of Nuisances in the way and to the extent that the Council shall approve, and on receiving information from the Inspector of Nuisances that his intervention is required in consequence of the existence of any nuisance injurious to health, or of any overcrowding in a house, he shall, as early as practicable, take such steps as he is legally authorised to take under any Statute in force in the District, or by any resolution of the Council, as the circumstances of the case may justify and require.
- (7) In any case in which it may appear to him to be necessary or advisable, or in which he shall be so directed by the Council he shall himself inspect and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk, and any other article to which the provisions of the Public Health Acts in this behalf apply, exposed for sale, or deposited for the purpose of sale or of preparation for sale, and intended for the food of man, which is deemed to be diseased, or unsound, or unwholesome, or unfit for the food of man; and if he finds that such animal or article is diseased, or unsound, or unwholesome, or unfit for the food of man, he shall give such directions as may be necessary for causing the same to be dealt with by a Justice according to the provisions of the Statutes applicable to the case. He shall also take such action as it may be necessary for him to take by virtue of the provisions of the Public Health (Regulations as to Food) Act, 1907, and any Regulations made thereunder.
- (8) He shall perform all the duties imposed upon him by any bye-laws and regulations of the Council, duly confirmed where confirmation is legally required, in respect of any matters affecting the public health, and touching

which they are authorised to frame bye-laws and regulations.

- (9) He shall inquire into any offensive process of trade carried on within the District, and report on the appropriate means for the prevention of any nuisance or injury to health therefrom.
- (10) He shall attend at the office of the Council or at some other appointed place, at such times as they may direct.
- (11) He shall from time to time report in writing to the Council his proceedings, and the measures which may require to be adopted for the improvement or protection of the public health in the District. He shall in like manner report with respect to the sickness and mortality within the District, so far as he has been able to ascertain the same.
- (12) He shall keep a book or books, to be provided by the Council, in which he shall make an entry of his visits and notes of his observations and instructions thereon, and also the date and nature of applications made to him, the date and result of the action taken thereon and of any action taken on previous reports; and shall produce such books or book, whenever required, to the Council.
- (13) On Monday, the Ninth day of January, One thousand nine hundred and eleven, and on every Monday thereafter, he shall forward Us by post, at such an hour as in the ordinary course of post will ensure its delivery to Us on the following Tuesday morning a return, in such form as We from time to time require, as to the number of cases of infectious diseases notified to him during the week ended on the preceding Saturday night. He shall also forward at the same time a duplicate of the return to the Medical Officer or Officers of Health of the County or Counties in which the District is situated.
- (14) He shall as soon as practicable after the Thirty-first day of December in each year make an Annual Report to the Council, up to the end of December, on the sanitary circumstances, the sanitary administration, and the vital statistics of the District.

In addition to any other matters upon which he may consider it desirable to report, his Annual Report shall contain the information indicated in the following paragraphs; together with such further information as We may from time to time require:—

(a) An account of any influences threatening the health of the District, the prevalence of infectious or epidemic diseases therein, and the measures taken for their prevention.

(b) An account of all general and special inquiries made during the year.

(c) An account of the work performed by the Inspector of Nuisances during the year, including the statement supplied in pursuance of Article XX. (16) of this Order.

(d) A statement as to the conditions affecting the wholesomeness of the milk produced or sold in the District.

(e) A statement as to the conditions affecting the wholesomeness of foods for human consumption, other than milk, produced or sold in the District.

(f) A statement as to the sufficiency and quality of

the water supply of the District and of its several parts, and in areas where the supply is from water-works, information as to whether the supply is constant or intermittent.

(g) A statement as to the pollution of rivers or streams in the District.

(h) A statement as to the character and sufficiency of the arrangements for the drainage, sewerage and sewage disposal in all parts of the District.

(i) A statement as to the privy, water-closet, and other closet accommodation in the District, including information as to the approximate number of each type of privy and closet.

(j) A statement as to the character and efficiency of the arrangements for the removal of house-refuse, and the cleansing of earth-closets, privies, ashpits, and cess-pools in the District.

(k) A statement with regard to the housing accommodation of the District as required by Article V. of the Housing (Inspection of District) Regulations, 1910, and an account of any other action taken by the Council under the Housing, Town Planning, &c., Act, 1909, bearing on the public health.

(l) A statement as to the vital statistics of the District, including a tabular statement, in such form as We may from time to time Direct, of the sickness and mortality within the District.

(m) Where the Medical Officer of Health is appointed by the Council of a County Borough, or by a Council having delegated powers under the Midwives Act, 1902, a statement as to the administration of that Act in the District:

Provided that, if the Medical Officer of Health shall resign or be removed before the Thirty-first day of December in any year, he shall as soon as practicable after going out of office make to the Council the like report for so much of the year as shall have expired when he ceased to hold office.

- (15) He shall forthwith report to Us any case of Plague, Cholera, or Small Pox, or of any serious outbreak of epidemic disease in the District which may be notified to him, or which may otherwise come or be brought to his knowledge.
- (16) He shall transmit to Us three copies of each annual report and one copy of any special report. At the same time that he transmits to Us the copies of his annual report or of any special report, or that he reports to Us a case of Plague, Cholera, or Small Pox, he shall transmit a copy of the report or give the like information to the County Council or County Councils of the County or Counties within which the District is situated. Where the Medical Officer of Health is appointed by the Council of a County Borough, or by a Council having delegated powers under the Midwives Act, 1902, he shall also transmit to the Privy Council and to the Central Midwives Board either a copy of his annual report or of that part of it which contains the statement relating to the administration of the Midwives Act, 1902.

- (17) In matters not specifically provided for in this Order, he shall observe and execute any instructions issued by Us, and the lawful orders and directions of the Council applicable to his office.
- (18) Whenever We shall make regulations and shall declare the regulations so made to be in force within any area comprising the whole or any part of the District, he shall observe such regulations, so far as the same relate to or concern his office.

PART II.

With respect to every Medical Officer of Health no part of whose salary is intended to be payable by a County Council or by the Council of a County Borough in pursuance of the Local Government Act, 1888, We hereby Order as follows:—

Article XXI.—The following shall be the duties of the Medical Officer of Health in respect of the District for which he is appointed:—

- (1) He shall, within seven days after his appointment, report his appointment in writing to Us.
- (2) He shall perform all the duties prescribed by Article XIX. of this Order for a Medical Officer of Health in respect of whose salary a payment is intended to be made by a County Council or by the Council of a County Borough as aforesaid.

PART III.

COMMENCEMENT OF ORDER.

Article XXII.—This Order shall take effect on the First day of January One thousand nine hundred and eleven, except Article X. thereof, which shall take effect on the First day of April, One thousand nine hundred and eleven.

SHORT TITLE.

Article XXIII.—This Order may be cited as “The Sanitary Officers (outside London) Order, 1910.”

It will be seen that these orders deal very fully with the whole subject of the duties of an M. O. H., also with his remuneration.

POWERS OF M. O. H.

It is obvious that it would be absurd to impose duties on an M. O. H. with regard to inspecting properties and goods, &c., if at the same time powers were not given to him to enter upon premises and properties at all times. In the succeeding pages where details are dealt with it will be found that these powers of entry and search are usually mentioned in each separate Act; when not so mentioned, it is safe to assume that they exist under the more general Health Acts, *e.g.*, sec. 102 of the 1875 Act, sec. 41 of the 1907 Act, &c., &c.

His powers of dealing with the conditions he may find obviously must vary considerably, from prompt and immediate seizure of, say, bad food, down to merely reporting matters to a district or county council or the L.G.B. for treatment.

I conclude section 2 of this chapter with a list of Acts relating to Public Health dealt with in this chapter.

LIST OF ACTS RELATING TO PUBLIC HEALTH IN CHRONOLOGICAL ORDER.

10 Vic. c. 17	..	Waterworks Clauses Act, 1847, <i>vide</i> p. 233.
11 & 12 Vic. c. 63, 1848	..	Repealed entirely in 1875, except sec. 83 referring to vaults or graves; <i>vide</i> p. 213.
12 & 13 Vic. c. 94, 1849	..	Not noted here.
13 & 14 Vic. c. 90, 1850	..	Not noted.
15 & 16 Vic. c. 42, 1852	..	Not noted.
18 & 19 Vic. c. 121	..	An Act to Consolidate and Amend the Nuisance Removal and Diseases Prevention Acts, 1848-1849, 14th August, 1855, <i>vide</i> p. 233.
26 & 27 Vic. c. 93	..	Waterworks Clauses Act, 1863, <i>vide</i> p. 233.
34 & 35 Vic. c. 113	..	An Act to amend the Metropolis Water Act, 1852, 21st August, 1871, <i>vide</i> p. 233.
35 & 36 Vic. c. 79, 1872	..	Noted on p. 213.
38 & 39 Vic. c. 55	..	The Public Health Act, 11th August, 1875, <i>vide</i> pp. 214, 231, 234.
41 & 42 Vic. c. 25	..	Public Health (Water) Act, July, 1878, <i>vide</i> p. 234.
46 & 47 Vic. c. 59	..	Epidemic and other Diseases Prevention Act, 25th August, 1883, <i>vide</i> p. 246.
47 Vic. c. 12	..	An Act to confirm By-laws. Of no medical importance.
47 & 48 Vic. c. 74	..	An Act of only one clause relating to recovery of penalties not quoted, no medical importance.
48 & 49 Vic. c. 35	..	An Act to amend the 1875 Act in relation to Ships and Port Sanitary Authority, 31st July, 1885, not quoted.
48 & 49 Vic. c. 53	..	An Act to amend the 1875 Act with respect to members and officers of local authorities, 6th August, 1885, not quoted, no medical interest.
52 & 53 Vic. c. 11	..	An Act to regulate the sale of horse flesh for human food, 24th June, 1889, <i>vide</i> p. 244.
52 & 53 Vic. c. 64	..	An Act confirming powers of Local Government Board to make regulations regarding cholera, 30th August, 1889, included in epidemics, p. 246.

- 52 & 53 Vic. c. 72 An Act to provide for the notification of Infectious Disease, 30th August, 1889, *vide* p. 247.
- 53 & 54 Vic. c. 34 Infectious Diseases (Prevention) Act, 4th August, 1890, *vide* p. 245.
- 53 & 54 Vic. c. 59 Public Health Acts Amendment Act, 18th August, 1890.
- 54 & 55 Vic. c. 76 Public Health (London) Act, 5th August, 1891, *vide* p. 235.
- 56 & 57 Vic. c. 68 An Act to enable County Councils to establish Isolation Hospitals, 21st December, 1893, *vide* p. 246.
- 59 & 60 Vic. c. 19 Public Health Act. An Act to make further provision for Infectious Diseases and to abolish Quarantine, 7th August, 1896, *vide* p. 247.
- 59 & 60 Vic. c. 20 An Act to enable the Local Government Board to assign powers, rights, and duties to Port Sanitary Authorities, 7th August, 1896, *vide* p. 287.
- 62 & 63 Vic. c. 8 An Act to extend the Infectious Diseases Notification Act to all districts, 20th June, 1899, *vide* p. 247.
- 1 Edw. 7, c. 8 An Act to amend the Isolation Hospitals Act, 1893, 26th July, 1901, of no medical interest but *vide* p. 247.
- 7 Edw. 7, c. 32 Public Health Act Regulations as to importation, preparation, storage and distribution of articles of food, 28th August, 1907, *vide* p. 244.
- 7 Edw. 7, c. 53 Public Health Acts Amendment Act, 28th August, 1907, *vide* pp. 232, 235.
- 9 Edw. 7, c. 44 Housing, Town Planning Act, 3rd December, 1909, *vide* p. 277.
- Statutory Rules and Regulations, Memorandum, and model by-laws for water fittings, issued by the Local Government Board, December, 1910, *vide* p. 236.

FOR IRELAND.

- 41 & 42 Vic. c. 52, 1878 .. The basic Act for Ireland comparable to the English Act of 1875, on which indeed it is founded, and its medical clauses are so nearly similar that I have not quoted them.
- 42 & 43 Vic. c. 57, 1879 .. An amending Act of no medical interest.

FOR SCOTLAND.

- 30 & 31 Vic. c. 17, 1867 .. } I have not quoted either of these.
- 54 & 55 Vic. c. 52, 1891 .. }

I shall now deal with Acts relating to the individual or specific duties of M. O. H. and other officers or medical practitioners under the headings of—

A. Nuisances.
B. Water Supply.
C. Food Supplies.
D. Infectious Diseases.

E. Factory Surgeons.
F. Housing Acts.
G. Ships and Ports.
H. Aliens Act.

CHAPTER IX (*continued*)

SECTION III.

A. Nuisances.

Everyone has his own personal ideas of what a nuisance means to him, but in our present connection the word is more or less technically defined, and in two Acts at least is defined statutorially at least so far as what is shall include.

" 11 & 12 Vic. c. 123. *The Nuisances Removal and Diseases Prevention Act, 1848*," amended by " 12 & 13 Vic. c. 111. *The Nuisances Removal and Diseases Prevention Amendment Act, 1849*," are the two earliest Acts I have dealing specifically with the matter, and they are by " 18 & 19 Vic. c. 121. *An Act to consolidate and amend the Nuisances Removal and Diseases Prevention Acts, 1848 and 1849*," declared to be defective and repealed, and then this last Act defines a nuisance in Sec. 8. The word " nuisance " under this Act shall include " *Any Premises in such a state as to be a nuisance or injurious to health ; any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit so foul as to be a nuisance or injurious to health ; any animal so kept as to be a nuisance or injurious to health ; any accumulation or deposit which is a nuisance or injurious to health* " with a proviso in regard to the last sentence safeguarding businesses and manufactures.

By sec. 91 of the Public Health Act of 1875 the above list of what things shall constitute a nuisance was retained and enlarged by adding " *Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates . . .*

" *Any factory workshop, or workplace . . . not kept in a cleanly state or not ventilated . . . or overcrowded . . . so as to be dangerous or injurious to health . . . ; any fireplace or furnace which does not as far as practicable, consume its own smoke . . .*" and further states they may be dealt with summarily.

[In London 54 & 55 Vic. c. 76, by Sec. 2, adds any absence from premises of water fittings (*vide* p. 236).]

We need not, however, labour the point, for if it be desired to cause the removal or alteration of something objectionable it will be for the law to determine whether it is a nuisance or not within the meaning of Acts.

What I do wish to explain is how a doctor in attendance upon a patient whom he has reason to believe is being injuriously affected (illness actually caused by, or kept up by, or convalescence retarded by) by a noxious smell or similar nuisance, can proceed to have matters put straight.

Sec. 41 of the Public Health Act, 1875, strengthened by Sec. 34 of the Public Health Amendment Act, 1907, gives to a medical man, as to any individual, power to appeal in writing to a local authority touching any drain, water or earth closet, privy, &c., which is a nuisance or dangerous to health. The section is general in its application, *i.e.*, not necessarily connected with the house in which the patient is lying, and obviously suggests the course of writing a formal complaint to the M. O. H. This letter, and perhaps a reminder, if the nuisance remains unabated is all a private practitioner can do.

Sec. 46 of the 1875 Act runs :—

“ Where on the certificate of the medical officer of health or of two medical practitioners, it appears to any local authority that any house or part thereof is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby . . . the local authority shall give notice to the owner or occupier . . . to whitewash, cleanse or purify . . . ” or do it themselves and recover the expenses.

And secs. 45, 46, and 47 of the 1907 Act extend the idea thus :—

“ Sec. 45.—(1) If the medical officer . . . reports that he has reasonable grounds for believing that any drains of any building are so defective as to be injurious or dangerous to health the local authority may authorise their medical officer . . . to apply tests to such drains ” [subject to consent of owner or occupier or to a Court order].

Sec. 46. Refers in similar language to sec. 45 to cesspools, ashpits, wells, and drains from such.

Sec. 48. Refers in similar language to sinks and drains for refuse water ; and assuredly on the written report of a medical man in attendance on a case of illness the M. O. H. would have reasonable “ grounds for believing.”

I may just add sec. 92 of the 1875 Act, which runs :—

“ It shall be the duty of every local authority to cause to be made from time to time inspection of their district with a view to ascertain what nuisances exist . . . ”

Medical men have no direct concern in the steps that the M. O. H. or the Local Authority can or must take, they are apt to appear a bit tedious to an impatient patient.

SECTION III.

B. Water Supply.

What we may term modern legislation with regard to the supply of pure water to the inhabitants of these islands commences with the year 1847, when "10 Vic. c. 17. *An Act for consolidating in one Act certain provisions usually contained in Acts authorising the making of waterworks for supplying towns with water.* April 23, 1847," was passed.

The interest this Act has for modern medical officers of health is that a good deal of it was specifically included in the Public Health Act of 1875, and the part so included has not been repealed, and for one who would know the intricacies of water legislation it is still necessary to study the 1847 Act, but it has not any interest for the ordinary medical man.

In chronological order it is next necessary to mention "18 & 19 Vic. c. 121. Aug. 14, 1855. *An Act to consolidate and amend the Nuisances Removal and Diseases Prevention Acts, 1848 and 1849,*" because in 1871 an Act called "*The Metropolis Water Act, 1871, or 34 & 35 Vic. c. 113*" was passed, the 33rd sec. of which runs as follows :—

"*The absence in respect of any premises of the prescribed fittings . . . shall be a nuisance within sec. 11 and sections 12—19 (inclusive) of the Nuisances Removal Act for England, 1855, and within all provisions of the same or any other Act applying, amending or otherwise relating to those sections ; and that nuisance, if in any case proved to exist, shall be presumed to be such as to render the premises unfit for human habitation within sec. 13 of the Nuisances Removal Act for England, 1855, unless and until the contrary is shown to the satisfaction of the justices acting under that section.*"

It is true that the whole Act of 1855 was repealed in 1875, but with a very significant exception, viz., "except so far as relates to the Metropolis" so that the above would still appear to be sound law for Medical Officers of Health of London districts and sound cause of complaint to a local authority for any private medical practitioner. The Public Health Act (London), 1891, did actually repeal the 1855 Act, but its influence remains.

Continuing our story, the next Water Act of interest is :—

"26 & 27 Vic. c. 93. *An Act for consolidating in one Act certain provisions frequently inserted in Acts relating to Waterworks.* July 28, 1863" in which it is enacted "*and with respect to the Waste or Misuse of the water supplied by or belonging to the Undertakers [the water company supplying water] be it enacted as follows :—*

"Sec. 16. If any person supplied with water . . . wrongfully does or causes or permits to be done anything in contravention of any of the provisions of the special Act [the Act under which he is supplied with water] or wrongfully fails to do anything which, under any of those provisions, ought to be done for the Prevention of the Waste, Misuse, undue consumption, or contamination of the water . . . the Company may (without prejudice to any Remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied (by the company) to him or for his use, and may cease to supply him with water so long as the cause of injury remains or is not remedied.

"Sec. 17. If any person supplied with water by the undertakers [water company] wilfully or negligently causes or suffers any Pipe, Valve, Cock, Cistern, Bath, Soil-Pan, Water-closet, or other apparatus or receptacle to be out of repair or to be so used or contrived as that the water supplied to him . . . is or is likely to be wasted, misused, unduly consumed or contaminated, or so as to occasion or allow the Return of Foul Air or other noisome or impure matter into any Pipe belonging to or connected with the pipes of the Company, he shall for every such offence be liable to a Penalty not exceeding five pounds."

These two sections are still unrepealed and in active operation under the activities of Medical Officers of Health and Sanitary Inspectors, and may be noted by all medical men.

Then came the Public Health Act of 1875, Secs. 51—70 of which deal with water supply, and the general tenor of which is to give both urban and rural authorities power to provide water supplies to inhabitants of their districts and to charge for the supply, and Sec. 57 deliberately incorporates the Act of 1863 (above) and a good deal of the Act of 1847.

Sec. 60 provides penalties for wilfully or by culpable negligence injuring meter or fittings.

Sec. 70 states clearly that any person may represent to a local authority that a water supply is so polluted as to be injurious to health, and the local authority may then deal with the matter by application to a court of summary jurisdiction.

This clearly enables a medical practitioner to interfere on behalf of a patient whose water supply he considers defective.

In 1878 the Act of 1875 was amended and strengthened by the passage of "41 & 42 Vic. c. 25. *An Act to amend the Public Health Act, 1875, so far as relates to the supply of Water.* July 4, 1878," sec. 3 of which runs:—

"It shall be the duty of every rural sanitary authority . . . to see that every occupied dwelling-house within their district has within a reasonable distance an available supply of wholesome water

sufficient for the consumption and use for domestic purposes of the inmates."

We may here note another instance of "may" in 1875 becoming "shall" in 1878 and a Medical Officer of Health becomes an important executive officer for the "shall" under Sec. 7, which provides for the inspection from time to time of the water supply within his district.

The next Water Act of importance is—

"54 & 55 Vic. c. 76. *An Act to consolidate and amend the Laws relating to Public Health in London.* Aug. 5, 1891," from which we have already (above, p. 231) quoted a general definition or idea of a "nuisance" and wherein specifically, sec. 2—(1) (f) states—

"*Any such absence from premises of water fittings as is a nuisance by virtue of sec. 33 of the Metropolitan Water Act, 1871 . . .*" (quoted above) shall be a nuisance liable to be dealt with summarily; and sec. 48 (1) states—

"*An occupied house without a proper and sufficient supply of water shall be a nuisance liable to be dealt with summarily . . . and if it is a dwelling-house shall be deemed unfit for human habitation.*"

This Act and its sections, it is true, only apply to London, but the underlying principle has very considerable weight with authorities in deciding questions anent water supply to houses anywhere in the country.

Finally, in 1907, we have "7 Edw. 7, c. 53. *An Act to amend the Public Health Acts.* Aug. 25, 1907," which, so far as the Act itself gives any indication, did not repeal any previous Acts but merely strengthened and clarified their provisions. Of this Act—

"Sec. 35. *For the purpose of the Public Health Act, 1875—*

"(1) *Any cistern used for the supply of water for domestic purposes so placed, constructed, or kept as to render the water therein liable to contamination, causing or likely to cause risk to health;*

"(2) *Any gutter, drain, shoot, stack-pipe, or down-spout of a building which by reason of its insufficiency or its defective condition shall cause damp in such building or in an adjoining building . . . shall be deemed to be a nuisance within the meaning of that Act.*"

"Sec. 36. *No pipe used for the carrying off of rain water from any roof shall be used for the purpose of carrying off the soil or drainage from any privy or water closet . . .*" are of interest to all medical men in dealing with bad smells, &c., in the houses of their patients.

The term "prescribed fittings," found in the Metropolis Act of 1871, and either tacitly or avowedly referred to in nearly all,

Water Acts, requires just a word of explanation, inasmuch as the private occupier or owner of a house is specially interested in them because he is responsible for them.

"The word 'prescribed' shall mean prescribed by any regulations made under the authority of this" (The Metropolis Water Act, 1871) *Act*. The Local Government Board is now the Government department which regulates and advises upon questions arising between water companies and water consumers, and under its auspices are issued a model set of by-laws relating to these fittings and, indeed, to a large extent defining authoritatively both the words "prescribed" and "fittings." Thus they define the weight and diameter of the consumer's pipes, the depth of underground pipes, protection from frost, provision of stop-cocks, drawing-cocks, ball-cocks (joints allowed), cisterns (their composition, covering, &c.), regulations for hot water apparatus, &c., baths, overflow pipes, closets and urinals, &c. They are too long to be quoted here in full, but must be thoroughly known and studied by Medical Officers of Health.

CHAPTER IX (*continued*)

C. Food.

ACTS RELATING SPECIFICALLY TO THE ADULTERATION OF ARTICLES OF FOOD AND DRINK.

In practical working it is impossible to separate "adulteration" from the other conditions attaching to articles of food which render them unfit for consumption by man [or animal]. Though these so-called adulterations are often enough innocent additions intended merely to prevent decomposition in storage, they not infrequently take the form of preservatives (antiseptics, bactericides, deodorants, and even colouring matters) which are intended to enable a dishonest tradesman (wholesale or retail) to sell food which has begun to decompose, or is even in an advanced stage of decomposition, without detection by the eye or nose of the ordinary purchaser.

The Legislature has, however, been compelled to deal with these two aspects of food-fitness-for-consumption, as necessity arose, by different Acts; hence to study the laws on the food supply of the population one must look up the Acts relating to the duties of Medical Officers of Health, Inspectors of Nuisances, &c., as well as the Acts with which we are now proceeding to deal.

Judging by the preamble to "23 & 24 Vic. c. 84. *An Act for preventing the Adulteration of Articles of Food or Drink.* Aug. 6, 1860," which runs:—

"Whereas the Practice of adulterating Articles of Food and Drink for Sale, in fraud of Her Majesty's Subjects, and to the great Hurt of their Health, requires to be repressed by more effectual Laws than those which are now in force for that Purpose. Be it therefore enacted . . ."

We must presume that some laws had been found necessary previously, but with them I do not propose to deal. Although this Act has been repealed, I cannot help quoting a portion of Sec. 1 of it.

"Every Person who shall sell any Article of Food or Drink with which, to the Knowledge of such Person, any Ingredient or Material injurious to the Health of Persons eating or drinking such

Article has been mixed, and every Person who shall sell as pure or unadulterated any Article of Food or Drink which is adulterated or not pure, shall for every such Offence, . . .” be punished. The language of which would seem to be comprehensive enough, and yet the proverbial coach-and-four was driven so easily through it that some five or six Acts were found necessary to improve and strengthen it.

In addition to the above Act the following were specifically repealed by the Sale of Food and Drugs Act of 1875 (except in regard to appointments made under them), viz. :—

(1) Sec. 24 of the Sale of Poisons and Pharmacy Act, 1868 (*vide ante*, pp. 105, 106) which extended the offence of adulteration to drugs. (2) Sec. 3 of “33 & 34 Vic. c. 26. *An Act to regulate the sale of Poisons in Ireland*” which did for Ireland what the above sec. 24 did for England, viz., extend the offence of adulteration to drugs; and (3) the whole of “35 & 36 Vic. c. 74. *An Act to amend the Law for the prevention of Adulteration of Food and Drink and of Drugs*. Aug. 10, 1872,” the preamble of which, almost verbatim, repeats that of the 1868 Act—“*Whereas the practice of adulterating articles of food and drink and drugs for sale in fraud of Her Majesty's subjects and to the great hurt of their health and danger to their lives, requires to be repressed by more effectual laws . . . be it enacted . . .*” and the clauses are very similar in general terms.

We must now proceed to consider the main Acts of 1875 and 1899.

“38 & 39 Vic. c. 63. *An Act to repeal the Adulteration of Food Acts and to make better provision for the Sale of Food and Drugs in a pure state*. Aug. 11, 1875.”

This is the first of the principal Acts on the subject which still remains substantially unrepealed and upon which subsequent legislation has been built.

Sec. 1. Deals with the repeals above noticed.

“Sec. 2. *The term ‘food’ shall include every article used for food or drink by man, other than drugs or water: the term ‘drug’ shall include medicine for internal or external use.*” Definitions which would certainly seem to be wide enough to cover everything, and yet, in sec. 26 of the 1899 Act, it was found necessary to add to the definition of “food” “*and any article which ordinarily enters into or is used in the composition or preparation of human food; and shall also include flavouring matters and condiments.*”

“Sec. 3. *No person shall mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder any*

article of food with any ingredient or material so as to render the article injurious to health, with intent that the same may be sold in that state, and no person shall sell any such article so mixed, coloured, stained or powdered, under a penalty . . .”

Sec. 4 uses the same words for drugs, “*except for the purpose of compounding as hereinafter described.*”

I can find no further definition of compounding, and presume it must refer to making up a medical or veterinary prescription or a patent medicine, or preparing drugs in accordance with the Brit. Pharm. (now of course, since 1858, the official standard for the preparation of drugs).

Sec. 5. Exempts from the penalty anyone who “*shows to the satisfaction of the Court that he did not know*” that the article was so treated, “*and that he could not with reasonable diligence have obtained that knowledge.*” The “and” at the commencement of the last quotation blocks a good many loopholes for dishonesty.

“*Sec. 6. No person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, under a penalty not exceeding twenty pounds ; provided that an offence shall not be deemed to be committed under this section in the following cases ; that is to say :—*

“(1) *Where any matter of ingredient not injurious to health has been added to the food or drug because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight, or measure of the food or drug, or conceal the inferior quality thereof ;*

“(2) *Where the drug or food is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent ;*

“(3) *Where the food or drug is compounded as in this Act mentioned ;*

“(4) *Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.*”

It is under this section with its exceptions that a very large number of cases have been brought with reference to such things as the “greening of vegetables,” the addition of boracic acid to sausages, of colouring matter to butter, &c., the arguments on one side being (a) that the addition was essentially not injurious to health ; or (b) not injurious in the quantity added ; (c) that it was required for commercial purposes of storage and distribution, while the other side has argued : (a) that the addition was

injurious to health either essentially or in the added quantity; (b) that it would not be required for any commercial process of storage and distribution had the quality, *i.e.*, the freshness and freedom from decay, been originally of a satisfactory standard.

We cannot here quote cases, but may state in general terms that decisions have been very conflicting in all these arguments, with no very certain tendency in any direction, and that the quantity of the added preservative or colouring matter has certainly had a very material influence in determining guilt or innocence. Possibly future legislation may lay down some hard-and-fast rules which will settle such matters.

"Sec. 7. No person shall sell any compound article of food or compound drug which is not composed of ingredients in accordance with the demand of the purchaser, under a penalty not exceeding twenty pounds."

So far as food is concerned "pork" sausages, sausages in general, "horseflesh," "potted meat," &c., are the sort of questions that here crop up. The "demand of the purchaser" depending very much on local or trade custom on which a good deal of conflicting evidence is usually forthcoming.

Similarly for drugs, undoubtedly the drugs as prescribed by the Brit. Pharm. is what the purchaser demands in an ordinary case; but what he demands when proprietary or quack or popular remedies are asked for, is a very questionable matter on which legislation has little to say, notwithstanding the earnest wishes of the profession. So far as general evidence is concerned, this can be suborned on either side to an extent limited only by the depth of the pockets of the opposing parties.

"Sec. 8. Provided that no person shall be guilty of any such offence as aforesaid in respect of the sale of an article of food or a drug mixed with any matter or ingredient not injurious to health, and not intended fraudulently to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of delivering such article or drug he shall supply to the person receiving the same a notice, by a label distinctly and legibly written or printed on or with the article or drug, to the effect that the same is mixed."

Here undoubtedly is a loophole big enough to let through much dishonesty—coffee with 95 per cent. of chicory sold as a mixture of coffee, for instance, and butter with non-butter fats to any extent.

"Sec. 9. No person shall, with the intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it so as to affect injuriously its quality, substance, or nature, and no person shall sell any article so altered without making

disclosure of the alteration, under a penalty in each case not exceeding twenty pounds."

Tea, for which special provision is made by secs. 30 and 31: " 'Exhausted' shall mean and include any tea which has been deprived of its proper quality, strength, or virtue, by steeping, infusion decoction, or other means," would seem to be here included as well as many "spent" drugs, but we do not know of many actions brought under this section.

"Sec. 13. Any medical officer of health, inspector of nuisances, or inspector of weights and measures, or any inspector of a market or any police constable under the direction and at the cost of the local authority appointing such officer, inspector, or constable, or charged with the execution of this Act, may procure any sample of food or drugs, and if he suspects the same to have been sold to him contrary to any provision of this Act, shall submit the same to be analysed by the analyst of the district or place for which he acts . . ."

This is another illustration of the wide range of the duties of an M. O. H.

Secs. 33 and 34. extend the Act to Scotland and Ireland with modifications appropriate to the judicature of those countries.

We now pass on to "42 & 43 Vic. c. 30. *An Act to amend the Sale of Food and Drugs Act of 1875.* July 21, 1879."

This Act introduces us to a beautiful illustration of the ways in which Acts of Parliament are evaded by dishonest ingenuity, which we give in the words of the Act itself.

The preamble runs:—

"Whereas conflicting decisions have been given in England and in Scotland [Where was Ireland? we wonder. Was the Act a dead letter?] in regard to the meaning of the effect of sec. 6 of the *Sale of Food and Drugs Act, 1875* . . . be it enacted . . .

"Sec. 2. In any prosecution (under sec. 6 of the 1875 Act) . . . it shall be no defence . . . to allege that the purchaser having bought only for analysis, was not prejudiced by such sale. Neither shall it be a good defence to prove that the article . . . though defective in nature or in substance or in quality, was not defective in all three respects."

Comment is needless.

Sec. 3. Extends the words of sec. 13 above of the principal Act to "*milk in course of delivery to the purchaser or consignee in pursuance of any contract for the sale to such purchaser or consignee;*" any duly accredited (*vide* above) office and officer may have it analysed and proceed against the seller or consignor if necessary.

This section is extended by sec. 14 of the 1899 Act to "*every* M.L.

other article of food : *Provided that no samples shall be taken under this section except upon the request or with the consent of the purchaser or consignee.*" A provision, the force of which is not quite apparent in the light of the increased stringency of the 1899 Act in other directions or sections (*vide* p. 244).

Sec. 6. Makes water a permitted addition to spirits "*Provided that such addition has not reduced the spirit more than 25° under proof for brandy, whiskey, or rum, or 35° under proof for gin,*" otherwise the Act is of no medical interest.

Lastly, we must notice " 62 & 63 Vic. c. 51. *An Act to amend the Law relating to the Sale of Food and Drugs.* Aug. 9, 1899.

" Sec. 1.—(1) *If there is imported into the United Kingdom any of the following articles, namely :*

- " (a) *Margarine or Margarine-cheese, except in packages conspicuously marked 'Margarine' or 'Margarine-Cheese' as the case may require ; or*
- " (b) *Adulterated or impoverished butter (other than Margarine) or adulterated or impoverished milk or cream, except in packages or cans conspicuously marked with a name or description indicating that the butter or milk, or cream has been so treated ; or*
- " (c) *Condensed, separated, or skimmed milk, except in tins or other receptacles which bear a label whereon the words 'Machine-skimmed Milk' or 'Skimmed Milk,' as the case may require, are printed in large and legible type ; or*
- " (d) *Any adulterated or impoverished article of food to which His Majesty may by order in council direct that this section shall be applied, unless the same be imported in packages or receptacles conspicuously marked with a name or description indicating that the article has been so treated ;*
the importer shall be liable, on summary conviction, for the first offence to a fine not exceeding twenty pounds, for the second offence to a fine not exceeding fifty pounds, and for any subsequent offence to a fine not exceeding one hundred pounds."

The only comment required here is to draw attention to sec. 3, whereby encouragement is given to the practice of taking samples for analysis.

" Sec. 1.—(7) *For the purposes of this section an article of food shall be deemed to be adulterated or impoverished if it has been mixed with any other substance, or if any part of it has been abstracted so as in either case to affect injuriously its quality, substance, or nature,*

" *Provided that an article of food shall not be deemed to be adul-*

terated by reason only of the addition of any preservative or colouring matter of such a nature and in such quantity as not to render the article injurious to health."

This provision in (7) opens a rather wide door to possible dishonesty.

"*Sec. 3.—(1) It shall be the duty of every local authority entrusted with the execution of the laws relating to the sale of food and drugs to appoint a public analyst, and put in force from time to time, as occasion may arise, the powers with which they are invested, so as to provide proper securities for the sale of food and drugs in a pure and genuine condition, and in particular to direct their officers to take samples for analysis.*

"(2) Gives the L.G.B. power to act over the heads of local authorities if these neglect their duties."

Owing to this section, we have not hitherto noticed the appointment of analysts, because whereas, in previous Acts, the permissive or tentative "may" has been employed, but here, as in other cases, we get an illustration of the ripening of public opinion in such matters, from opinion to proof, from "may" to "shall" because of such proof.

"*Sec. 4.—(1) The Board of Agriculture may, after such inquiry as they deem necessary, make regulations for determining what deficiency in any of the normal constituents of genuine milk, cream, butter, or cheese, or what addition of extraneous matter or proportion of water, in any sample of milk (including condensed milk), cream butter, or cheese, shall for the purpose of the Sale of Food and Drugs Acts raise a presumption, until the contrary is proved, that the milk, cream, butter, or cheese, is not genuine or is injurious to health, and an analyst shall have regard to such regulations in certifying the result of an analysis under those Acts.*"

Here it is necessary to interpolate a note from "50 & 51 Vic. c. 29. *An Act for the better prevention of the Fraudulent Sale of Margarine.* Aug. 23, 1887," otherwise known as "*The Margarine Act, 1887,*" by sec. 10 of which "Any officer authorised to take samples under the Sale of Food and Drugs Act, 1875, may, without going through the form of purchase provided by that Act . . . take for the purpose of analysis samples of any butter or substances purporting to be butter, which are exposed for sale, and are not marked Margarine, as provided by this Act; and any such substance not being so marked shall be presumed to be exposed for sale as butter," because the next four sections of the Act we are dealing with prescribe regulations for the sale of margarine and margarine cheese, important for an M. O. H., but of no interest to general practitioners.

I have not the materials for pronouncing an opinion of value on the standard for milk set up by the Board of Agriculture. I can only say that from the evidence I have obtained from farmers, such a standard must be elastic if it is not to inflict injustice at certain seasons of the year.

Sec. 17.—(2) Gives to a Court the power of inflicting imprisonment instead of a fine for offences under these Acts when the offence "*was committed by the personal act, default, or culpable negligence of the person accused, if the court is of opinion that a fine will not meet the circumstances of the case,*" an illustration of the increasing stringency alluded to above.

Taken as a whole, these Acts must have had a very excellent influence upon the purity of the nation's food supply ; but we still read far too frequently of actions taken against fraud, too frequently, that is, as a testimonial to the honesty of provision dealers ; by no means so as a testimonial to the vigilance of all Health Officers.

7 Edw. 7, c. 32. Public Health (Regulations as to Food) Act, 1907, states definitely that the powers of the Local Government Board for making "*regulations authorising measures to be taken for the prevention of danger arising to public health from the importation, preparation, storage, and distribution of articles of food or drink (other than drugs or water) intended for sale for human consumption . . .*" may—

" (a) *Provide for the examination and taking of samples of any such articles ;*

" (b) *Apply . . . any provision in any Act of Parliament dealing with the like matters, with the necessary modifications and adaptations*" ; also for purposes of such regulations, "*articles commonly used for the food or drink of man shall be deemed to be intended for sale for human consumption unless the contrary is proved.*"

In addition to these Acts, the following is also of importance, more perhaps to the M. O. H. than to a private practitioner ; but even by him it cannot be ignored.

" 52 & 53 Vic. c. 11, 1889. *An Act to regulate the Sale of Horseflesh for Human Food.*"

1. A shop or place for the sale of horseflesh must have the fact notified by a sign in words indicating that horseflesh is sold here.

2. Horseflesh must not be sold for anything else, nor made into sausages and compounds not stated to be horseflesh.

3. Any M. O. H. may examine and inspect the premises and the meat and seize the latter if he thinks right.

4. Search warrant may be granted by justices to M. O. H. if he suspects a business.

Penalties are provided for breaches of the Act and for obstructing an M. O. H. in his duties of inspection or search.

I add the following as evidence of the powers of entry and inspection possessed by the M. O. H. in regard to the above Acts and others dealing with food.

"Sec. 116 of the Public Health Act, 1875. Any medical officer of health or inspector of nuisances may at all reasonable times inspect and examine any animal, carcase, meat, poultry, game, fresh fish, fruit, vegetables, corn, bread, flour, or milk exposed for sale and intended for the food of man, the proof that the same was not exposed or deposited for any such purpose or was not intended for the food of man resting with the party charged; and if any such . . . appears to such medical officer or inspector to be diseased or unsound, or unwholesome or unfit for the food of man he may seize and carry away the same . . . in order to have it dealt with by a justice."

Sec. 117 (1875). Gives the justice of sec. 116 power to dispose of the food in question.

Sec. 119 (1875). Gives the M. O. H. wide powers of search in cases where he suspects articles of food are concealed. If he makes complaint on oath to a justice, he gets a search warrant.

These sections would certainly seem powerful enough to effect their purpose, provided the M. O. H. is sufficiently keen on his work and is placed in a sufficiently strong and independent position to have his ideas carried out.

"53 & 54 Vic. c. 34. An Act to prevent the spread of Infectious Disease," by Sec. 4 gives an M. O. H. similar powers of inspection of dairies, and compels him to inspect them if he "is in possession of evidence that any person in the district is suffering from infectious disease attributable to milk supplied within the district from any dairy situate within or without the district, or that the consumption of milk from such dairy is likely to cause infectious disease to any person residing in the district . . ."

CHAPTER IX (continued)

D. Infectious Diseases.

By Sec. 13 of the Public Health Acts Amendment Act, 1907, these are defined as any infectious disease to which the Infectious Disease (Notification) Act, 1889, for the time being applies within the District (*vide* p. 247).

It may be that in the future the care expended on the air we breathe (nuisances to the nose), the water we drink and the food we eat will succeed in totally abolishing infectious diseases, whether in a sporadic, endemic, or epidemic, form, but that time has not yet arrived, and we have now to consider a considerable body of legislation having for its object the control and management of these diseases as and when they break out.

THE LAY ASPECT OF INFECTIOUS DISEASE LEGISLATION.

Into the professional aspect of this legislation we shall have to enter at considerable length; the lay aspect may be cursorily glanced at. In this latter, the first change noticeable is from the permissive "may" to the compulsory "shall" in the instructions to local sanitary authorities (*cf.* the Act of 1848 with that of 1875) with more active power in a central independent governing body, the Local Government Board, to see that the "shall" is obeyed. Then comes an increase in the powers or perhaps rather a better defining of the powers of local authorities to raise the funds necessary to carry out local details ("46 & 47 Vic. c. 59. *The purposes named in the said regulations* [for carrying out parts of the 1875 Act] *shall be deemed to be purposes for which sanitary authorities may borrow money*). This is followed by an extension of the "shall" in geographical area not only to rural as well as urban areas, but also to ships and vessels coming to ports in England ("52 & 53 Vic. c. 64. Aug. 30, 1889. *Regulations of the Local Government Board made . . . in pursuance of sec. 130 Public Health Act, 1875 . . . may provide for the detention of vessels and of persons on board vessels . . .*"), thus incidentally involving port medical officers. Lastly ("56 & 57 Vic. c. 68, *Isolation Hospitals Act, 1893*") comes power to certain County Councils in England to establish and manage a hospital for the treatment and isolation of persons affected with an infectious

disease. The "Medical Officer of Health of a county" may be the person upon whose report the county council may decide to erect such an isolation hospital, otherwise this Act is mainly concerned with the council management of such hospitals.

In 1896 two Acts were passed—59 & 60 Vic. c. 19, which strengthened the Act of 1889 in regard to ships and vessels by increasing the duties of Officers of Customs and the coastguard, and also abolished quarantine of vessels under the assurance that notification, isolation, and disinfection were better, and also 59 & 60 Vic. c. 20, by which the Local Government Board may assign to any port authority powers under the Act of 1890.

"1 Edw. 7, c. 8. *An Act to amend the Isolation Hospitals Act of 1893. July 26, 1901,*" deals entirely with lay details of the transfer of "an isolation hospital" by a local authority to a county council subject to terms sanctioned by the Local Government Board, a further illustration of the centralisation of power in independent hands as opposed to local (possibly biassed) ones.

"Sec. 67 of the 1907 Act.—(1) *The local authority may provide nurses for attendance on patients suffering from any infectious disease in their district who, owing to want of accommodation at the hospital or danger of infection, cannot be removed to the hospital, or in cases where removal to the hospital is likely to endanger the patient's health.*

"(2) *The local authority may charge such reasonable sums for the services of nurses provided by them as they think fit.*

"(3) *Nothing in this section shall be deemed to take away or diminish the necessity of providing proper hospital accommodation for persons suffering from infectious disease.*"

THE PROFESSIONAL ASPECT OF INFECTIOUS DISEASE LEGISLATION.

(i.) NOTIFICATION.

Turning now to the professional aspect of infectious disease, it is but logical to consider notification first, for we must make a diagnosis before we can move in any preventive direction.

The Acts dealing with this point are "52 & 53 Vic. c. 72. *An Act to provide for the Notification of Infectious Disease to local authorities. Aug. 30, 1889,* and 62 & 63 Vic. c. 8. *An Act to extend the Infectious Disease (Notification) Act to districts in which it has not been adopted. June 20, 1899.*"

The latter is an excellent illustration of what we have often mentioned, viz., substitution of "shall" for "may" by making

the Act apply universally all over England and Wales and to ships in ports, with the curious exception of the county borough of Huddersfield, where I presume arrangements satisfactory to the L. G. B. are and were in working in 1899.

The Act of 1889 contains the following sections relating to the duties of medical men.

" Sec. 3.—(1) Where an inmate of any building used for human habitation . . . is suffering from an infectious disease to which this Act applies, then unless such building is a hospital into which persons suffering from an infectious disease are received, the following provisions shall have effect, that is to say—

" (a) Makes head of family or relatives or every person in charge of or in attendance on the patient responsible for notifying to the Medical Officer of Health.

" (b) Every medical practitioner attending on or called in to visit the patient shall forthwith on becoming aware that the patient is suffering from an infectious disease to which this Act applies, send to the medical officer of health for the district a certificate stating the name of the patient, the situation of the building and the infectious disease from which in the opinion of such medical practitioner, the patient is suffering.

" (2) Every person required by this section to give a notice or certificate who fails to give the same shall be liable . . . to a fine not exceeding forty shillings.

" Provided that if a person is not required to give notice in the first instance, but only in default of some other person, he shall not be liable to any fine if he satisfies the court that he had reasonable cause to suppose that the notice had been duly given."

Sec. 4.—(1) Forms shall be provided for certificates.

(2) Forms shall be supplied gratuitously to medical men *" and the local authority shall pay to every medical practitioner for each certificate duly sent by him in accordance with this Act a fee of 2s. 6d. if the case occurs in his private practice, and of one shilling if the case occurs in his practice as medical officer of any public body or institution."*

(3) If two or more M. O. Hs. the certificate to be sent only to the one in special charge of the area.

" Sec. 6. In this Act the expression ' infectious disease ' to which this Act applies means any of the following diseases : small-pox, cholera, diphtheria, membranous croup, erysipelas, the fever known as scarlatina or scarlet fever and the fevers known by any of the following names—typhus, typhoid, enteric, relapsing, continued, or puerperal, and includes as respects any particular district any

infectious disease to which this Act has been applied by the local authority of the district in manner provided by this Act."

Sec. 37. Lays down the "manner" in which a local authority may declare a disease notifiable or certifiable, and provides that notice of such declaration be sent to every medical practitioner practising within the jurisdiction of such local authority.

"Sec. 8.—(1) *A notice or certificate for purposes of this Act shall be in writing or print, or partly in writing and partly in print, and for the purposes of this Act the expression 'print' includes any mechanical mode of reproducing words.*

"(2) *A notice or certificate . . . may be sent by being delivered to the officer or being left at his office or residence, or may be sent by post addressed to him at his office or at his residence."*

"Sec. 10. *Where a medical officer of health receives in pursuance of this Act a certificate of a medical practitioner relating to a patient within the Metropolitan asylum district he shall within twelve hours after such receipt forward a copy thereof to the managers of that district . . .*

"Sec. 11. *A payment made to any medical practitioner in pursuance of this Act shall not disqualify that practitioner for serving as member of the council of any county or borough, or as a member of a sanitary authority, or as a guardian of a union or in any municipal or parochial office.*

"*Where a medical practitioner attending on a patient is himself the medical officer of health of the district, he shall be entitled to the fee to which he would be entitled if he were not such medical officer."*

Sec. 13.—(1) Extends the Act to "*every ship, vessel, boat, tent, van, shed, or similar structure used for human habitation . . .*

"(2) *A ship, vessel, or boat, lying in any river, harbour, or other water not within the district of any local authority within the meaning of this Act shall be deemed for the purposes of this Act to be within the district of such local authority as may be fixed by the Local Government Board . . .*"

Secs. 17 and 18. The Act shall apply to Scotland and Ireland with necessary modification in terms.

Sec. 84 of the 1875 Act. "*The keeper of a common lodging house shall when a person in such house is ill of fever or any infectious disease, give immediate notice thereof to the medical officer of health.*" Penalty forty shillings and daily of five shillings by sec. 32 of the 1890 Public Health Acts Amendment Act.

"Sec. 54, *Public Health Act Amendment Act, 1907. Every dairyman to notify to the medical officer all cases of infectious disease amongst his employees, penalty forty shillings.*"

REMARKS ON NOTIFICATION.

Sec. 3.—(b) The obvious intention is to secure the notification of every case. The actual wording of the section would leave it open to unscrupulous men to have a case notified more than once to secure the fees; this could easily be done by calling in friends to unnecessary consultations. The wording of the Act does as a matter of fact put a genuine consultant in somewhat of a dilemma by the words “or called in to visit the patient” which must of necessity include the consultant. The honest course is to make sure that the case has been certified at least once and to refrain from multiple certification; this is obviously the intent of the provision in Sec. 3 (2).

With regard to the latter part of the same paragraph “the infectious disease from which, in the opinion of such medical practitioner,” we can only say, Do not be in too great a hurry to certify while the diagnosis is doubtful; nothing except the paltry half-crown is to be gained by precipitancy, and even that may be dearly earned in view of the discomfort and inconvenience to which the whole household of a private patient may and probably will be put when the Medical Officer of Health appears on the scene; but on the other hand we would warn all medical men against the opposite fault of not certifying (even when the diagnosis is certain), on the appeal of the friends arising out of their dread of the same trouble. The Act is tolerably simple and its intention obvious and for the good of the community, and it should be carried out by medical men with fair-mindedness and without regard to personal feelings.

Sec. 6. It will be noticed that several diseases, which science has taught us are strictly to be called “infectious,” are omitted from the Bill of 1889, some of which are specifically dealt with by Local Government Board regulations, some are dealt with by local option.

Amongst the former we may enumerate anthrax—a trade disease dealt with by W. C. A. Acts; scabies, ringworm, pediculi, dealt with by the Inspection of School Children Acts.

Amongst the latter are to be enumerated tubercle,* cerebro-spinal meningitis, or spotted fever as it is sometimes called, measles, chicken-pox, german measles, whooping-cough. On all

* In respect of tubercle the Insurance Act of 1911 is introducing certain difficulties and doubts, *e.g.*, the definition of “tubercle”—whether pulmonary only, whether *all* cases *must* be certified, &c.; time will no doubt settle all this, and it seems probable that all tubercle will be eventually notifiable.

of these it is only necessary here to remark that on starting practice (whether as principal, assistant, or *locum tenens*) it is advisable for every medical man to make himself acquainted with the rules adopted by the local authority, for ignorance is not admitted as an excuse for non-compliance with the Act.

(ii.) THE PREVENTION OF AN EPIDEMIC.

Having then received intimation that a case or cases of infectious disease has occurred, it naturally follows that the M. O. H. will be on the alert to prevent a wide outbreak of the disease.

Sec. 134 of the Public Health Act, 1875 gives wide general powers to the Local Government Board to deal with epidemics or threatened epidemics by making regulations for

- (1) Speedy interment [or cremation] of the dead ;
- (2) House to house visitation ;
- (3) Providing medical aid and accommodation ;
- (4) Disinfection of houses in which cases have occurred ;
- (5) Guarding against spread of the disease ;

“ and may by order declare all or any of the regulations so made to be in force within the whole or any part or parts of the district of any local authority including vessels ; and sec. 136 says, The Local authority . . . shall superintend and see to the execution of such regulations.”

This will naturally be done by and through the Medical Officers of Health and the Inspectors of Nuisances ; and these officers have through various Acts of Parliament very wide powers for compelling medical men and private individuals to assist them in their duties and efforts to prevent the spread of the disease. It is a little difficult to arrange these various matters in a serial or logical order ; we can only separate them by headings as follows :—

(ii.) a. REMOVAL OF PATIENT TO HOSPITAL.

The sections of various Acts under this heading are sec. 123 of the Public Health Act 1875—

“ Any local authority may provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any infectious disorder, and may pay the expense of conveying therein any person so suffering to a hospital or other place of destination.”

Sec. 61 of the Act of 1907.—(1) The local authority may remove the patient or other person from a house in which infectious disease has appeared, on consent, or on order from two

justices. Penalty for refusal or obstruction, five pounds. House, includes tent, van, shed, boat, or any other structure for human habitation. A section to which private practitioners may well have their attention drawn.

"*Sec. 63 (1907). The owner or driver of a public vehicle . . . shall not knowingly convey or any other person shall not knowingly place in any such public vehicle, a person suffering from any infectious disease, or a person suffering from any such disease shall not enter any such vehicle. . . .*" Penalty forty shillings.

"*Sec. 64 (1907).—(1) If any person suffering from any infectious disease is conveyed in any public vehicle . . . the owner or driver thereof, as soon as it comes to his knowledge, shall give notice to the medical officer, and shall cause such vehicle to be disinfected, and if he fails to do so he shall be liable to a penalty not exceeding five pounds, and the owner or driver of such vehicle shall be entitled to recover in a summary manner from the person so conveyed, or from the person causing that person to be so conveyed, a sufficient sum to cover any loss and expense incurred by him in connection with such disinfection.*"

(2) Provides for disinfection by the local authority gratis or on payment.

"*Sec. 127 of Public Health Act, 1875. Every owner or driver of a public conveyance shall immediately provide for the disinfection of such conveyance after it has conveyed to his knowledge any person suffering from a dangerous infectious disorder [penalty five pounds], but no such owner or driver shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying into effect the provisions of this section.*"

"*Sec. 124 of the Public Health Act, 1875. Where any suitable hospital or place for the reception of the sick is provided within the district of a local authority or within a convenient distance of such district, any person who is suffering from any dangerous infectious disorder [no matter what the circumstances of the case may be so long as he is in or upon any house or premises, including ship or vessel, where he cannot be effectually isolated so as to prevent the spread of the disease]. Sec. 65 of Public Health Amendment Act, 1907, may on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of such hospital or place be removed by order . . . to such hospital at the cost of the local authority . . .*"

Sec. 125. Gives local authorities similar powers in regard to persons infected with a dangerous infectious disorder brought within their districts by ship or boat.

(ii.) *b.* EXPOSURE OF PERSON OR CLOTHING.

“ *Sec. 126. Any person who—*

“ (1) *While suffering from any dangerous infectious disorder wilfully exposes himself without proper precautions against spreading the said disorder in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor, or driver thereof that he is so suffering ; or*

“ (2) *Being in charge of any person so suffering so exposes such sufferer [or causes or permits such sufferer to be exposed. Public Health Amendment Act, 1907] ; or*

“ (3) *Gives, lends, sells, transmits, or exposes, without previous disinfection, any bedding, clothing, rags, or other things which have been exposed to infection from any such disorder ; shall be liable to a penalty not exceeding five pounds . . . ”*

“ *Sec. 55 of Public Health Acts Amendment Act, 1907. A person shall not take or send to any public washhouse or to any laundry, for the purpose of being washed, any bedding, clothes or other things which he knows to have been exposed to infection from any infectious disease unless they have been disinfected by or to the satisfaction of the local authority or their medical officer or of a legally qualified medical practitioner or are sent to a laundry with proper precautions for the purpose of disinfection with notice that they have been exposed to infection.*”

(2) *Penalty, forty shillings.*

[This section recognises the responsibility of a private practitioner for private cases of infectious disease under his care.]

“ *Sec. 57.—(1) of Public Health Acts Amendment Act, 1907. No person being the parent or having the care or charge of a child . . . who is or has been suffering from infectious disease or has been exposed to infection shall after a notice from the medical officer that the child is not to be sent to school, permit such child to attend school without having procured from the medical officer a certificate (which shall be granted free of charge on application) that in his opinion such child may attend without undue risk of communicating such disease to others.*” *Penalty forty shillings.*

Sec. 52.—(1) Public Health Acts Amendment Act, 1907. If any person knows that he is suffering from an infectious disease, he shall not engage in any occupation or carry on any trade or business unless he can do so without risk of spreading the infectious disease.

(2) *Penalty, forty shillings.*

- (ii.) c. DEALING WITH THE ROOM OR HOUSE OR "FOMITES" FROM WHICH THE PERSON HAS BEEN REMOVED OR IN WHICH HE WAS TREATED.

"Sec. 5 of *Infectious Disease Prevention Act*, 1890.

(1) *Where the medical officer of health of any local authority or any other registered medical practitioner, certifies that the cleansing and disinfecting of any house, or part thereof, and of any articles therein likely to retain infection [or the destruction of those articles, sec. 66 (1) of Public Health Acts Amendment Act, 1907] would tend to prevent or check any dangerous infectious disease, the clerk to the local authority shall give notice in writing to the owner or occupier of such house or part thereof that the same and any such articles therein will be cleansed and disinfected by the local authority at the cost of such owner or occupier unless he informs the local authority within 24 hours . . . that he will cleanse &c. . . . to the satisfaction of the medical officer of health [or of any other legally qualified medical practitioner] within the time fixed by the notice."*

The words in brackets come from the Public Health Acts Amendment Act, 1907, sec. 66.

(2) If the owner or occupier fails, the local authority shall do it under the superintendence of the M. O. H.

(3) If he is unable to do it, the local authority may do it at their expense.

Sec. 6 of the same Act of 1890 gives the M. O. H. of a local authority power to demand the delivery of "articles" for disinfection. The same to be returned or compensation paid.

"Sec. 56 of *Public Health Acts Amendment Act*, 1907. *Where the local authority on the certificate of the medical officer are satisfied that the cleansing purification, or destruction of any article in a dwelling house is, by reason of the filthy condition of the article, necessary to prevent injury or to remove or obviate risk or injury to the health of any person in the dwelling house, the local authority may cause the article to be cleansed, purified, or destroyed at their expense."*

Reasonable compensation to be paid.

"Sec. 128 of *Public Health Act*, 1875. *Any person who knowingly lets for hire any house room or part of a house in which any person has been suffering from any dangerous infectious disorder without having such house, room, or part of a house and all articles therein liable to retain infection disinfected to the satisfaction of a legally qualified practitioner, as testified by a certificate signed by him, shall be liable to a penalty not exceeding twenty pounds. The*

keeper of an inn shall be deemed to let for hire part of a house to any person admitted as a guest into such inn."

"Sec. 59, 1907.—(1) *If any person knows that he is suffering from an infectious disease he shall not take any book, or use or cause any book to be taken for his use from any public or circulating library [penalty forty shillings].*

(2), (3) and (4) makes other provisions to prevent books used by him getting into other hands.

This section is a very important one for medical men to remember when dealing with convalescents.

Sec. 13. Infectious Disease Prevention Act, 1890. "*Any person who shall knowingly cast or cause or permit to be cast, into any ash-pit, ash-tub, or other receptacle for the deposit of refuse, matter any infectious rubbish without previous disinfection, shall be guilty of an offence under this Act.*"

(ii.) *d.* DEALING WITH CONTACTS AND SUSPECTS.

Sec. 53. Public Health Acts Amendment Act, 1907.

"(1) *If the medical officer [of health] certifies to the local authority that any person in the district is suffering from infectious disease which the medical officer has reason to suspect is attributable to milk supplied within the district,*" the local authority may require a list of all the places whence such milk is derived (*vide* also p. 249, for notification by dairymen).

"Sec. 58.—(1) of the same Act. *The principal of a school in which any scholar is suffering from an infectious disease shall, if required by the local authority, furnish to them . . . a complete list of the names and addresses of the scholars in or attending at the school. . . .*"

This section brings in private school medical attendants or private practitioners for it obviously has a bearing on the notification of disease, sec. 3 (p. 248).

TUBERCLE IN IRELAND.

While on the subject of infectious diseases, I feel bound to insert a full report on the position of tuberculosis in Ireland. In England the situation is this: that tubercle has been placed amongst the notifiable diseases, above (p. 250). In Ireland a special Act has been passed dealing with the matter which may possibly be made the basis of future legislation in England and Scotland.

The Act itself is—

"8 *Edw. 7, c. 56. An Act to prevent the spread and provide for*

the treatment of Tuberculosis ; and for other purposes connected therewith. Dcc. 21, 1908."

[Sec. 23 says it shall apply to Ireland only.]

PART I.

" Sec. 1.—(1) *If any medical practitioner attending on any person within any district to which Part I. of the Act extends becomes aware that that person is suffering in any prescribed circumstances from tuberculosis of any prescribed form or at any prescribed stage, the medical practitioner shall within seven days after he becomes aware of the fact send to the Medical Officer of Health a certificate in the prescribed form and containing the prescribed particulars ;*

" (2) *The Local Government Board for Ireland, after consulting with the President of the Royal College of Physicians in Ireland and the President of the Royal College of Surgeons in Ireland, shall from time to time by Order prescribe the forms and stages of tuberculosis to which, and the circumstances in which, the said section of the Act shall apply, but that no forms of tuberculosis shall be so prescribed save such as by reason of infective discharges are liable to communicate the disease to other persons.*

" (3) *Any certificate required to be sent to a medical officer of health under this section may be sent either by delivering it to that officer, or by leaving it at his office or residence, or by sending it by post addressed to him at his office or at his residence.*

" (4) *If any medical practitioner required by this section to send a certificate fails to send the certificate within the period specified in this section he shall be liable on summary conviction to a penalty not exceeding forty shillings.*

" (5) *The sanitary authority shall pay to every medical practitioner for the certificate duly sent by him in relation to a patient in their district a fee of one shilling if the case occurs in an infirmary, public hospital, or workhouse, and a fee of two shillings and sixpence if the case occurs elsewhere, but only one notification fee shall be paid by the sanitary authority in respect of the same patient.*

" *Where the medical practitioner required by this section to send a certificate is himself the medical officer of health of the district, he shall be entitled to the fee to which he would be entitled if he were not such medical officer.*

" (6) *A payment made to any medical practitioner in pursuance of this section shall not disqualify the practitioner from serving as a member of any county or district council or as a guardian of any union.*

" (7) *The Local Government Board shall make regulations for*

carrying into effect the provisions of this section, and such regulations shall, among other matters, prescribe the form of certificate to be sent under this section and the particulars to be inserted therein, and shall provide for the proper custody of all certificates, and for securing that, so far as is, in the opinion of the Board, consistent with the public advantage, no publicity shall be given to any of the particulars contained in any such certificate, and that the certificate shall be cancelled if and when it appears to the medical officer of health that the person to whom it relates has been cured of the disease.

"The sanitary authority shall gratuitously supply forms of certificate to any medical practitioner residing or practising in their district who applies for the same.

"(8) In this section the expression 'medical officer of health' means—

"(a) as respects any district for which there is a medical superintendent officer of health, that officer; and

"(b) elsewhere, the medical officer of health of the dispensary district.

"2. Section one hundred and thirty-nine of the Public Health (Ireland) Act, 1878 (relative to the provision of means of disinfection), and section five (which relates to the cleansing and disinfecting of premises), section six (which relates to the disinfection of bedding), section fifteen (which relates to temporary shelter), section sixteen (which relates to penalties), and section seventeen (which relates to power of entry) of the Infectious Disease (Prevention) Act, 1890, shall apply with the necessary modifications in every case where tuberculosis is notifiable under this Act as regards any premises, bedding, clothing or articles exposed to or likely to retain infection, in like manner as if tuberculosis were an infectious disease to which those Acts apply.

"Sec. 3.—(1) This Part of this Act shall extend to any urban or rural sanitary district in Ireland after the adoption thereof."

PART II.

HOSPITALS AND DISPENSARIES.

"Sec. 4.—(1) A county council may, if they think fit, provide hospitals and dispensaries for the treatment of inhabitants of their county suffering from tuberculosis.

"Sec. 5. A county council shall, for every hospital or dispensary established by them, appoint—

"(a) a medical superintendent having the prescribed qualifications at such salary as may be approved by the Local Government Board; and

“(b) such nurses having the prescribed qualifications and, other officers and attendants, as are necessary for the requirements of the hospital or dispensary, at such respective salaries as the county council think proper, and may dismiss any person so appointed as they think fit, excepting the medical superintendent, who shall not be dismissed without the concurrence of the Local Government Board.”

Secs. 5 to 13 are of no medical interest, being concerned chiefly with monetary management affairs.

PART III.

SANITARY PROVISIONS.

“Sec. 14. A sanitary authority may, with the approval of and subject to such conditions as may be prescribed by the Local Government Board, provide and pay for the delivery of public lectures within their district and for the distribution of pamphlets, notices, and leaflets on subjects relating to tuberculosis, and may, with the like approval and subject to the like conditions, provide any drugs or appliances which would tend to prevent or check the spread of the disease.

“Sec. 15.—(1) A county council may appoint for their county a bacteriologist, being a medical practitioner, with such qualifications and at such remuneration as may be approved by the Local Government Board, for the examination of meat or milk or milk products, and of sputum or pathological specimens, and may, at their discretion dismiss such bacteriologist.

“(2) Subject to regulations to be made by the county council, the services of such bacteriologist shall, without charge, be at the disposal of any sanitary authority within the county for which the bacteriologist is appointed.

“(3) The expenses of a county council under this section shall be defrayed in like manner as establishment expenses under Part II. of this Act.

“Sec. 16.—(1) It shall be lawful for the medical officer of health of any dispensary district in a county for which a bacteriologist is appointed under this Act, and for any person authorised in writing in that behalf by the sanitary authority of any sanitary district in that county, to take, at any place within the dispensary district in the case of the medical officer, or within the sanitary district in the case of such other person, samples for examination or analysis of any milk or milk products produced or sold or intended to be sold within the county.

" (2) *The powers conferred by this section on medical officers and other persons of taking samples within the dispensary district and sanitary district respectively may be exercised by any such medical officer or person at any place outside such district, if he has first obtained an order from a justice having jurisdiction in that place authorising the taking of such samples, which order any such justice is hereby empowered to make.*

" (3) *Every person taking a sample under this section in pursuance of an authorisation from a sanitary authority or an order of a justice shall produce the authorisation or order if and when required.*

" (4) *Any person who wilfully obstructs or impedes any medical officer of health or other person acting in the execution of this section shall be liable on summary conviction for the first offence to a fine not exceeding twenty pounds, and for the second or any subsequent offence to a fine not exceeding fifty pounds.*

" (5) *In this section the expression ' medical officer of health ' includes a medical superintendent officer of health, and in relation to a medical superintendent officer of health the expression ' dispensary district ' means the district for which such officer is appointed.*

" *Sec. 17.—(1) The expression ' sanitary officer of the sanitary authority ' in section one hundred and thirty-two of the Public Health (Ireland) Act, 1878, shall include any duly qualified veterinary surgeon approved by the sanitary authority for the purposes of that section, and the sanitary authority shall pay to such veterinary surgeon such remuneration as the Local Government Board may approve.*

" (2) *A veterinary surgeon so approved shall be deemed to be an officer of the local authority for the purpose of any order or regulation made under the Contagious Diseases (Animals) Acts, 1878 and 1886.*

" *18.—(1) Any sanitary authority may, if they think fit, cause to be slaughtered any milch cow which is certified by a veterinary surgeon to be affected with tubercular disease of the udder.*

" (2) *Such sanitary authority shall, for any milch cow slaughtered under this section, pay to the owner compensation, which shall be determined in case of dispute in the manner provided by section two hundred and seventy-four of the Public Health (Ireland) Act, 1878, and shall not in any case exceed ten pounds.*

" (3) *Where a milch cow has been slaughtered under this section, the carcase shall belong to the sanitary authority, and shall be buried or returned to the owner or otherwise disposed of by the sanitary authority according as the condition of the animal or carcase or other circumstances require or admit."*

The remaining sections are of no special medical interest.

Under the Act the following regulations have been issued by the L. G. B. for Ireland :—

THE LOCAL GOVERNMENT BOARD FOR IRELAND.

TUBERCULOSIS PREVENTION (IRELAND) ACT, 1908.

ORDER MAKING REGULATIONS FOR CARRYING INTO EFFECT THE PROVISIONS OF SECTION 1 OF THE ACT, IN URBAN AND RURAL DISTRICTS TO WHICH PART I. OF THE ACT EXTENDS.

We, the Local Government Board for Ireland, in exercise of the powers given to Us by the said Section 1 of the Act and of all other powers in this behalf enabling Us, after consulting with the President of the Royal College of Physicians in Ireland and the President of the Royal College of Surgeons in Ireland, do hereby order and prescribe as follows, that is to say :—

A. In every district to which Part I. of the Act extends, Section 1 of the Act shall apply to the form of Tuberculosis, known as Tuberculosis of the Lung, at any stage at which the sputum discharged by the person suffering is in the opinion of the medical practitioner attending on such person liable to communicate the disease to other persons.

Provided that the said Section shall only apply in the following circumstances, that is to say, where the person suffering—

(1) Habitually sleeps or works in the same room as any other person or persons not so suffering ; or

(2) Is employed or engaged in handling, preparing, or distributing milk, meat, or any other article of human food intended for sale to the public.

1. In these Regulations, unless the context otherwise requires, the expression " Tuberculosis " means Tuberculosis of the form, at the stage, and occurring in the circumstances prescribed by paragraph A above ;

the expression " statutory certificate " means the certificate required by sub-section (1) of section 1 of the Act to be sent to the Medical Officer of Health.

2. Notice of the adoption of Part I. of the Act by any Sanitary Authority, together with evidence of the fulfilment of the statutory preliminaries and a statement of the date fixed for the coming into operation of the said Part of the Act, shall be sent to Us by the Executive Sanitary Officer of the authority adopting it not less than twenty-one days before the date so fixed.

3. Every statutory certificate shall be in the form A in the Schedule hereto annexed, and shall include all the particulars in the said form set out.

4. The forms of statutory certificate to be supplied to medical practitioners by the sanitary authority shall be bound in books each containing twenty-five forms.

5. The forms of statutory certificate to be used by a Medical Practitioner in relation to cases of Tuberculosis occurring in an infirmary, public hospital or workhouse shall be printed on pink paper, and those to be used in relation to any other case shall be printed on white paper.

6. Where a Medical Practitioner attending upon any patient in the prescribed circumstances feels himself unable to decide whether such patient is suffering from Tuberculosis of the

prescribed form and at the prescribed stage, and a Bacteriologist has been appointed for the purpose, such Medical Practitioner may forward to such Bacteriologist a specimen or specimens of the sputum of such patient for examination. On the completion of such examination the Bacteriologist shall send free of all charge to the Medical Practitioner a certificate stating whether tubercle bacilli are or are not present in the sputum. If the Bacteriologist certifies that tubercle bacilli are present in the sputum, the patient shall be deemed to be suffering from Tuberculosis, and the Medical Practitioner shall with the statutory certificate forward to the Medical Officer of Health the certificate of the Bacteriologist.

- 7.—(1) The Medical Officer of Health shall on receiving a statutory certificate record the particulars therein contained in a register in the form B set forth in the Schedule hereunto annexed, and shall then transmit such certificate, together with his observations as to whether any action should be taken thereon, to the Executive Sanitary Officer of the district, who shall retain the same among the records of the Sanitary Authority.
- (2) The Sanitary Authority shall cause a record of all statutory certificates received, and of the action, if any, taken in each case, to be kept by the Executive Sanitary Officer in a Register (hereinafter referred to as "the Register of Notification") in the form C set out in the Schedule hereunto annexed.
- (3) The Executive Sanitary Officer upon receiving a statutory certificate from the Medical Officer of Health shall examine the Register of Notification and ascertain whether a statutory certificate relating to the same person has already been received, and if he shall find that such a certificate has been so received he shall at once inform the Medical Practitioner by whom the later statutory certificate was sent, and also the Medical Officer of Health, of the receipt of such earlier statutory certificate.
- (4) If no such earlier statutory certificate is recorded in the Register of Notification the Executive Sanitary Officer shall enter therein all the particulars contained in the statutory certificate, and the recommendation, if any, of the Medical Officer of Health in relation thereto, and the Sanitary Authority shall pay to the Medical Practitioner who has sent the statutory certificate the fee to which he is entitled under the Act.

8. Where the Medical Officer of Health is himself the medical practitioner required to send a statutory certificate, he shall send such certificate to the Executive Sanitary Officer, together with such recommendations, if any, as he considers necessary; and he shall not be entitled to be paid any fee in respect of such certificate until he has so sent it.

9. The Medical Officer of Health shall, within one month after the 31st day of March in each year, send to Us a summary of the particulars (other than names and addresses) contained in the statutory certificates received by him since the 31st day of March in the preceding year, classified according to age, sex, and occupation or description.

10. The statutory certificates in the custody of the Sanitary

Authority and the Register of Notification shall not be open to inspection by any person other than the Sanitary Authority, or an officer of the Sanitary Authority specially authorised by such authority in that behalf, or an Inspector of the Local Government Board, or an Auditor of Poor Law Unions designated by the Board to audit the accounts of the Sanitary Authority; and the Sanitary Authority shall not permit the particulars contained in any such certificate or register to be divulged in any such manner as to disclose the identity of any person to whom such particulars relate.

11. If the Medical Officer of Health is at any time satisfied that any person in relation to whom a statutory certificate has been sent has been cured of tuberculosis of the prescribed form, he shall send a certificate to that effect to the Executive Sanitary Officer, and thereupon the statutory certificate and the corresponding entry in the Register of Notification shall be cancelled by stamping or writing the word "Cancelled," together with the date across such statutory certificate and entry.

THE SCHEDULE.

Counterfoil,	No.	Form A.
		THE TUBERCULOSIS PREVENTION (IRELAND) ACT, 1908.
		<i>Certificate of Medical Practitioner.</i>
		District (County Borough).
		I hereby certify that in my opinion
Name	Name	
Address	Address	
	Sex	
Sex	Age	
	Occupation or)	
	Description }	
Age		is suffering from Tuberculosis of a form and at a stage to which and in circumstances in which Section 1 of the Tuberculosis Prevention (Ireland) Act, 1908, applies.
Occupation)		
or		
Description)		
Date of sending Certificate	Dated the day of 19 .	
	(Signed)	<i>Medical Practitioner.</i>
	(Address)	
	The Medical (Superintendent) Officer of Health,	
	District (County Borough).	
	ATTENTION DESIRED.	

* If no attention is desired the word "No" must be inserted here, and a specific statement added below showing what preventive measures are being adopted. The Medical Officer of Health will then advise whether the Sanitary Authority should intervene or not.

(The following must be printed on the back of every form of certificate).

The Local Government Board for Ireland, after consulting with the President of the Royal College of Physicians in Ireland and the President of the Royal College of Surgeons in Ireland, have, by The Tuberculosis (Conditions of Notification) (Ireland) Order, 1909, prescribed as follows:—

In every district to which Part I. of the Act extends, Section 1 of the Act shall apply to the form of Tuberculosis, known as Tuberculosis of the Lung, at any stage at which the sputum discharged by the person suffering is in the opinion of the medical practitioner attending on such person liable to communicate the disease to other persons.

Provided that the said Section shall only apply in the following circumstances, that is to say, where the person suffering—

(1) Habitually sleeps or works in the same room as any other person or persons not so suffering; or

(2) Is employed or engaged in handling, preparing, or distributing milk, meat, or any other article of human food intended for sale to the public.

The individual sections of the Act seem to be above comment in their excellence. The defects of it would seem to be the permissive character of its adoption and the smallness or even absence of medical control over hospitals for tuberculosis.

DEALING WITH THOSE WHO HAVE DIED.

" Sec. 141 of the Public Health Act, 1875. Any local authority may, and if required by the Local Government Board shall, provide and fit up a proper place for the reception of dead bodies before interment (a mortuary)."

" Sec. 142 of the Public Health Act, 1875. Where the body of one who has died of any infectious disease is retained in a room in which persons live or sleep, or where any dead body which is in such a state as to endanger the health of the inmates of the same house or room is retained in such house or room, any justice may, on a certificate signed by a legally qualified practitioner, order the body to be removed."

This section was materially strengthened and extended by secs. 8, 9, and 10 of the Infectious Disease Prevention Act, 1890; thus—

" Sec. 8 runs: No person without the sanction in writing of the medical officer of health, or of a registered medical practitioner, shall retain unburied elsewhere than in a public mortuary or in a room not used at the time as a dwelling place, sleeping place, or workroom for more than forty-eight hours, the body of any person who has died of an infectious disease."

Sec. 9 provides a ten-pound penalty for removing the body of a person dead of an infectious disease (except for immediate

burial) when an M. O. H. or other practitioner certifies that such removal is likely to spread contagion.

Sec. 10 provides for the removal and burial of bodies from elsewhere than the places mentioned in secs. 8 and 9.

"Sec. 11. *Any person who hires or uses a public conveyance other than a hearse for the conveyance of the body of a person who has died from any infectious disease without previously notifying to the owner or driver . . . shall be guilty of an offence.*"

"Sec. 143 of the Public Health Act, 1875. *Any local authority may provide and maintain a proper place (otherwise than at a work-house or at a mortuary) for the reception of dead bodies during the time required to conduct any post mortem examination ordered by a coroner or other constituted authority . . .*"

LIST OF ACTS RELATING TO INFECTIOUS DISEASES.

Vaccination (*vide* pp. 121 *et seq.*).

- | | |
|---|--|
| 46 & 47 Vic. c. 59, 1883. | An Act to make better provision for the prevention of outbreaks of formidable epidemic, endemic, or infectious diseases, and to amend the Public Health Act (England), 1875, and the Public Health Act (Ireland), 1878. August 25, 1883. |
| (Not quoted: its provisions are included in other Acts.) | |
| 52 & 53 Vic. c. 64, 1889. | An Act to remove doubts as to the power of the Local Government Board to make regulations respecting cholera. |
| (Quoted in connection with vessels, &c., <i>vide</i> p. 246.) | |
| 52 & 53 Vic. c. 72, 1889 | .. <i>Vide</i> p. 247. |
| 53 & 54 Vic. c. 34, 1890 | .. <i>Vide</i> p. 254, 257. |
| 56 & 57 Vic. c. 68, 1893 | .. <i>Vide</i> p. 246. |
| 62 & 63 Vic. c. 8, 1899 | .. <i>Vide</i> p. 247. |
| 1 Edw. VII., c. 8, 1901 | .. Not quoted; refers to powers of local authorities and isolation hospitals (<i>vide</i> p. 247). |

CHAPTER IX (continued)

E. Factory and Workshop Acts.

Previous to 1878 some seventeen or eighteen Acts of Parliament had apparently been passed bearing on factory legislation, all of which were repealed by "41 Vic. c. 16. *An Act to consolidate and amend the Law relating to Factories and Workshops. May 27, 1878,*" under sec. 72 of which Act factory surgeons were appointed, or, as they were then called, "*certifying surgeons for the purposes of this Act.*"

Between 1878 and 1901 six more Acts were passed, four called, Factory and Workshop Acts, two, Cotton Cloth Factories Acts, and finally, in 1901, was passed

"1 Edw. 7, c. 22. *An Act to consolidate with amendments the Factory and Workshop Acts. Aug. 17, 1901,*"

repealing all other Acts of a similar title and from this Act is taken what follows.

APPOINTMENT AND FEES OF FACTORY SURGEONS.

"Sec. 122.—(1) *Subject to such regulations as may be made by the Secretary of State, an inspector may appoint a sufficient number of duly registered medical practitioners to be certifying surgeons for the purposes of this Act, and may revoke any such appointment.*

"(2) *Every appointment and revocation of appointment of a certifying surgeon may be annulled by the Secretary of State upon appeal to him for that purpose.*

"(3) *A surgeon who is the occupier of a factory or workshop, or is directly or indirectly interested therein, or in any process or business carried on therein, or in a patent connected therewith shall not be a certifying surgeon for that factory or workshop.*"

This clause is obviously right and just, and is an example of a general principle of good law that it shall not make a doctor's public duty clash with his personal pecuniary interests.

"(4) *The Secretary of State may make rules for the guidance of certifying surgeons . . .*

"(5) *Every certifying surgeon shall, if so directed by the Secretary of State, make any special enquiry and re-examine any young person¹ or child.*"

¹ By definition "young person" means a person who has ceased to be a child, and is under the age of eighteen.

(6) He shall make annual reports in prescribed form.

"Sec. 123. Where there is no certifying surgeon . . . the poor law medical officer for the district . . . shall act for the time being as the certifying surgeon . . ."

"Sec. 124.—(1) The fees to be paid to a certifying surgeon in respect of the examination of, and grant of certificates of fitness for employment for young persons and children shall be regulated as follows :—

"(a) The occupier of the factory may agree with the certifying surgeon as to the amount of the fees.

"(b) In the absence of agreement the fees shall be in accordance with the scale :

*When the examination is at
the factory or workshop*

*{ 2s. 6d. for each visit, and 6d.
for each person after the
first five examined at that
visit ; and also if the fac-
tory or workshop is more
than one mile from the
surgeon's residence 6d. for
each complete half mile
over and above the mile.*

*When the examination is not
at the factory or workshop
but at the residence of the
surgeon or at some place
appointed by the surgeon
for the purpose, and that
place as well as the day and
hour appointed for the pur-
pose has been published*

*{ 6d. for each person
examined.*

or with such scale as may be substituted therefor by the Secretary of State.

"(c) The occupier shall pay the fees on the completion of the examination, or if any certificates are granted, at the time at which the surgeon signs the certificates, or at any other time directed by an inspector.

"(2) The fees to be paid to a certifying surgeon in cases where in pursuance of a direction of the Secretary of State or of regulations made under this Act (vide p. 270) he is required to examine the persons employed in a factory or workshop shall be in accordance with the scale :—

				s.	d.	
When the number of hands is under 10	..	2	6	per visit.		
" " " 20	..	3	0	"		
" " " 30	..	3	6	"		
" " " 50	..	4	0	"		
" " " 75	..	4	6	"		
" " " 100	..	5	0	"		
" " " over 100	..	7	6	"		

with the addition of one shilling for every mile or part of a mile in excess of one mile from the surgeon's residence: or with such scale as may be substituted therefor by the Secretary of State. Such fees shall, where the examination is in pursuance of a direction of the Secretary of State, be paid by the Secretary of State, and where the examination is in pursuance of regulations be paid by the occupier of the factory or workshop.

" (3) The fee to be paid to a certifying surgeon for the investigation of an accident in pursuance of this Act shall be such sum not more than ten or less than three shillings as the Secretary of State may prescribe, and shall be paid by the Secretary of State as expenses incurred in the execution of this Act."

DUTIES OF CERTIFYING SURGEONS UNDER THE ACT.

" Sec. 20.—(1) Where a certifying surgeon receives in pursuance of this Act notice of an accident in a factory or workshop, he shall with the least possible delay, proceed to the factory or workshop, and make a full investigation as to the nature and cause of the death or injury caused by that accident, and within the next twenty-four hours send to the inspector a report thereof.

" (2) The certifying surgeon, for the purpose only of an investigation under this section, shall have the same power as an inspector, and shall also have power to enter any room in a building to which the person killed or injured has been removed."

This section explains the words under the regulations of this Act in the section dealing with fees. The notice is sent to the certifying surgeon under conditions of a non-medical character, i.e., the conditions refer to people other than medical men.

" Sec. 61. An occupier of a factory or workshop shall not knowingly allow a woman or girl to be employed therein within four weeks after she has given birth to a child."

It is obvious that the word "knowingly" must be used in reference to a certificate given by a registered medical man who alone would be capable of signing such a certificate (*vide* p. 70) though equally obviously there may be and will commonly be,

other means by which an employer might "know" that a woman had been recently confined.

"With respect to a certificate of fitness for employment for the purposes of this Act, the following provisions shall have effect:—

"Sec. 64.—(1) The certificate shall be granted by the certifying surgeon of the district.

"(2) The certificate must not be granted except upon personal examination of the person named therein.

"(3) A certifying surgeon shall not examine a young person or child for the purpose of the certificate, or sign the certificate elsewhere than at the factory where the young person or child is or is about to be employed, unless the number of young persons and children employed in that factory is less than five, or unless for some special reason allowed in writing by an inspector.

"(4) The certificate must be to the effect that the certifying surgeon is satisfied, by the production of a certificate of birth or other sufficient evidence, that the person named in the certificate is of the age therein specified, and has been personally examined by him and is not incapacitated by disease or bodily infirmity for working daily for the time allowed by law in the factory named in the certificate.

"(5) The certificate may be qualified by conditions as to the work on which a child or young person is fit to be employed, and if it is so qualified the occupier shall not employ the young person or child otherwise than in accordance with the conditions.

"(6) A certifying surgeon shall have the same powers as an inspector for the purpose of examining any process in which a child or young person presented to him for the grant of a certificate is proposed to be employed.

"(8) The certificate of birth shall be either a certified copy of the entry in the register of births . . . or a certificate from a local authority within the meaning of the Elementary Education Act, 1876 . . . (vide p. 151.)

"(9) Where the certificate (of the certifying surgeon) is to the effect that the certifying surgeon has been satisfied of the age of the young person or child by evidence other than the production of a certificate of birth" it may be annulled by the inspector.

"(10) Where a certifying surgeon refuses to grant a certificate for any person examined by him he shall, when required, give in writing and sign the reasons for his refusal."

Sec. 65. Occupiers of "workshops" as opposed to "factories" may employ the certifying surgeon in like manner to sec. 64.

"Sec. 67. Where an inspector is of opinion that a young person under the age of sixteen, or a child is by disease or bodily infirmity

incapacitated for working daily for the time allowed by law . . . he may serve written notice on occupier . . . requiring the employment of such young person or child to be discontinued . . . unless the certifying surgeon has after the service of the notice personally examined the young person or child, and has certified that the young person or child is not so incapacitated."

This certification is one of the original and principal duties of a certifying surgeon; it is needless to point out to medical men the responsibility it entails.

INSTRUCTIONS FOR CERTIFYING SURGEONS.

(Form 723. Dec., 1907.)

I have been favoured by the Chief Inspector of Factories with a copy of these instructions, but as they are marked confidential, I am obviously not entitled to publish them *in extenso* as I have the similar instructions to M. O. Hs.

The duties entail a high degree of personal responsibility, and substitution of service is not easily granted for anything but serious emergencies and reasonable holidays.

Being a confidential officer, very material restrictions are rightly placed on his appearance in a court of law for purposes of giving evidence touching occurrences, &c., in factories.

His reports on accidents and diseases arising out of employment are rightly regarded as confidential; and the instructions deal very fully with points in this connection; they are obviously beyond reproduction here.

The instructions conclude with a table of fees allowed to Factory surgeons for attendance and evidence in Court. I do not consider myself at liberty to quote these fees, but they do not strike one as very liberal or likely to lead to a great waste of public money.

A copy of them is of course at once obtainable by every man on appointment and must be carefully studied.

DEFINITION OF CHILD AND YOUNG PERSON.

"Sec. 71.—(1) *When a child of the age of thirteen years has obtained from a person authorised by the Board of Education, a certificate of having attained such standard of proficiency in reading, writing and arithmetic, or such standard of previous due attendance at a certified efficient school as is mentioned in this section, that child shall be deemed to be a young person for the purpose of this Act."*
A child is defined by sec. 156 as "a person who is under the age of

fourteen and who has not, being of the age of thirteen, obtained the above-mentioned certificate."

These definitions are interesting and, in the absence of birth certificates, may give a certifying surgeon some little trouble (*vide* above, p. 269), but on the other hand, by sec. 147 (3), "*A declaration in writing by a certifying surgeon for the district, that he has personally examined a person employed in a factory or workshop in that district, and believes him to be under the age set forth in the declaration, shall be admissible in evidence of the age of that person*" in any legal proceedings taken under the Act.

DUTIES OF AN M. O. H. IN RELATION TO THE ACT.

"*Sec. 2.—(3) Where on the certificate of a medical officer of health or inspector of nuisances, it appears to any district council that the limewashing, cleansing, or purifying, of any such workshop, or of any part thereof, is necessary for the health of the persons employed therein, the council shall give notice in writing to the owner or occupier of the workshop to lime-wash, cleanse, or purify the same, or part thereof, as the case may require.*"

"*Sec. 5.—(1) Where it appears to an inspector that any act, neglect, or default in relation to any drain, water-closet, earth-closet, privy, ashpit, water supply, nuisance, or other matter in a factory or workshop is punishable or remediable under the Law relating to public health but not under this Act, that inspector shall give notice . . . to the district council . . . and it shall be the duty of the district council to make enquiry . . . and take such action . . . as seems proper for enforcing the Law.*

"*(2) An inspector may, for the purposes of this section, take with him into a factory or a workshop, a medical officer of health, inspector of nuisances, or other officers of the district council.*"

The first nine sections of the Act are concerned with what may be called the sanitary condition of a factory or workshop, and the quotations above show the overlapping of Acts of Parliament and the extent of the duties of an M. O. H. Inasmuch as the L. G. B. distinctly states (*vide* p. 220) that an M. O. H. may hold the office of certifying surgeon, the duties may also be combined, and this might be inserted above on p. 232, dealing with the duties of M. O. H. as regards nuisances.

"*Sec. 132. The medical officer of health of every district council shall in his annual report to it, report specifically on the Administration of this Act in workshops and workplaces . . . and send a copy to the Secretary of State.*

"*Sec. 133. Where any woman, young person, or child is employed*

in a workshop in which no abstract of this Act is affixed as by this Act required, and the medical officer of the district council becomes aware thereof, he shall forthwith give written notice . . . to the inspector . . ."

DUTIES OF ORDINARY PRACTITIONERS AS SET FORTH IN THE ACT.
Trade Diseases.

"Sec. 73.—(1) Every medical practitioner attending on or called in to visit a person whom he believes to be suffering from Lead, Phosphorus, Arsenical, or Mercurial poisoning or Anthrax contracted in any factory or workshop shall (unless the notice required by this subsection has been previously sent) send to the chief Inspector of Factories at the Home Office, London, a notice stating the name and full postal address of the patient and the disease from which . . . the patient is suffering, and shall be entitled in respect of every notice sent in pursuance of this section, to a fee of 2s. 6d. . . .

"(2) If any medical practitioner when required by this section to send a notice, fails forthwith to send the same he shall be liable to a fine not exceeding forty shillings.

"(3) Written notice of every case of lead, phosphorus, or arsenical or mercurial poisoning, or anthrax, occurring in a factory or workshop shall forthwith be sent to the inspector and to the certifying surgeon for the district: and the provisions of this Act with respect to accidents shall apply to any such case . . .

"(4) The Secretary of State may by special order apply the provisions of this section to any other disease occurring in a factory or workshop . . ."

Secs. 74–86 lay down certain provisions and regulations non-medical for preventing such diseases.

It is necessary to draw the attention of all medical men to these sections, especially perhaps 73 (2), as any one may find in his practice a case of the disease in question, and though the Act says "contracted in any factory or workshop," he had better certify the case if he is satisfied of his diagnosis, notwithstanding the fact that he may be uncertain as to the precise origin of the trouble. It is needless even to suggest other sources, they are well known and recognised.

For further discussion on the subject of Trade Diseases (*vide* pp. 294 *et seq.*), where the Workmen's Compensation Act, 1906, is dealt with.

Sec. 110 is important as a special case of infectious disease prevention. It gives power specifically to district councils on the advice or report of the M. O. H. to stop work being given out to any inmate of a house wherein someone is ill with an infectious

disease required to be notified under the law relating to infectious diseases; it refers chiefly to wearing apparel, but the Secretary of State may extend it to other classes of home work.

LIST OF FACTORY AND WORKSHOP ACTS.

As the Act of 1878 made such a clean sweep of all previous Acts, and as the Act of 1901, above noted, made a further clean sweep, including the Act of 1878, it seems hardly worth while to compile a list. I merely state that in the schedule to the 1878 Act nineteen Acts are enumerated and in the 1901 Act seven more, as being almost entirely repealed, absolutely so far as a general medical practitioner is concerned.

I must not omit, however, a document ("B.37268, Home Office. Third Issue. Dec. 1904") a memorandum from the Home Office defining many of the duties of local authorities under the Factory and Workshops Act, 1901.

CHAPTER IX *(continued)*

F. Acts relating to the Housing of the Working Classes.

It would be impossible to give a better introduction to this special branch of the work of an M. O. H. than to quote the preamble to "38 & 39 Vic. c. 36. *An Act for facilitating the Improvement of the Dwellings of the Working Classes in Large Towns.* June 29, 1875."

The Act itself has long been repealed, but the sense of the preamble still remains as a guiding force in legislation ; it runs :—

Whereas various portions of many cities and boroughs are so built, and the buildings thereon are so densely inhabited, as to be highly injurious to the moral and physical welfare of the inhabitants :

And whereas there are in such portions of cities and boroughs as aforesaid a great number of houses, courts, and alleys which, by reason of the want of light, air, ventilation, or of proper conveniences, or from other causes, are unfit for human habitation, and fevers and diseases are constantly generated there, causing death and loss of health, not only in the courts and alleys but also in other parts of such cities and boroughs :

And whereas it often happens that owing to the above circumstances, and to the fact that such houses, courts, and alleys are the property of several owners, it is not in the power of any one owner to make such alterations as are necessary for the public health :

And whereas it is necessary for the public health that many of such houses, courts, and alleys should be pulled down, and such portions of the said cities and boroughs should be reconstructed :

And whereas in connection with the reconstruction of those portions of such cities and boroughs it is expedient that provision be made for dwellings for the working class who may be displaced in consequence thereof :

Be it enacted

This same preamble was used to "38 & 39 Vic. c. 49. *An Act for facilitating the Improvement of the Dwellings of the Working Classes in large towns in Scotland.* Aug. 21, 1875," but this, like the similar one for England, was repealed by "53 & 54 Vic. c. 70. *An Act to consolidate and amend the Acts relating to Artizans and Labourers' Dwellings and the Housing of the Working Classes.* Aug. 18, 1890," which by Parts V. and VI. was made to apply to Scotland and to Ireland, with merely appropriate changes in local procedure and nomenclature of courts, &c., and to this Act we must now devote some consideration.

53 & 54 Vic. c. 70.

"Sec. 4. Where an official representation . . . is made to the local authority that within a certain area . . . any houses, courts, or alleys are unfit for human habitation . . ." [or the condition of buildings] and that the evils connected with such [an area] cannot be effectually remedied otherwise than by an improvement scheme . . . " [the local authority shall proceed to formulate such improvement scheme and carry it out under the Act.]

"Sec. 5.—(1) An official representation for the purposes of this part of this Act shall mean a representation made to the local authority by the medical officer of health of that authority, and in London made either by such officer or by any medical officer of health in London.

"(2) A medical officer of health shall make such representation whenever he sees cause to make the same; and if two or more justices of the peace acting within the district for which he acts as medical officer of health, or twelve or more persons liable to be rated to the local rate complain to him of the unhealthiness of any area within such district, it shall be the duty of the medical officer of health forthwith to inspect such area, and to make an official representation stating the facts of the case, and whether in his opinion the said area or any part thereof is an unhealthy area or is not an unhealthy area."

It will be noted that this clause throws on an M. O. H. a wide discretionary power and one for the due exercise of which he requires security of tenure in his office.

PART II. OF THE ACT.

BUILDINGS UNFIT FOR HUMAN HABITATION.

"Sec. 30. It shall be the duty of the medical officer of health of every district to represent to the local authority of that district any dwelling-house which appears to him to be in a state so dangerous or injurious to health as to be unfit for human habitation.

"Sec 31.—(1) If in any district any four or more householders living in or near to any street complain in writing to the medical officer of health of that district that any dwelling-house in or near that street is in a condition so dangerous or injurious to health as to be unfit for human habitation, he shall forthwith inspect the same, and transmit to the local authority the said complaint, together with his opinion thereon, and if he is of opinion that the dwelling-house is in the condition aforesaid, shall represent the same to the local

authority, but the absence of any such complaint shall not excuse him from inspecting any dwelling-house and making a representation thereon to the local authority."

OBSTRUCTIVE BUILDINGS.

" Sec. 38.—(1) If a medical officer of health finds that any building within his district, although not in itself unfit for human habitation, is so situate that by reason of its proximity to or contact with any other buildings it causes one of the following effects, that is to say—

" (a) It stops ventilation, or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health ; or

" (b) It prevents proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings ;

in any such case, the medical officer of health shall represent to the local authority the particulars relating to such first-mentioned building (in this Act referred to as 'an obstructive building') stating that in his opinion it is expedient that the obstructive building should be pulled down.

" (2) Any four or more inhabitant householders of a district may make to the local authority of the district a representation as respects any building to the like effect as that of the medical officer under this section."

POWERS OF COUNTY COUNCILS.

" Sec. 45.—(1) Where the medical officer of health or any inhabitant householders make a representation or complaint, or give information to any vestry or district board in the administrative county of London or to the local board of Woolwich, or to any rural sanitary authority elsewhere (which vestry, board, or authority is in this Act referred to as the district authority), or to the medical officer of such authority either respecting any dwelling-house being in a state so dangerous or injurious to health as to be unfit for human habitation, or respecting an obstructive building, and also where a closing order has been made as respects any dwelling-house, the district authority shall forthwith forward to the county council of the county in which the dwelling-house or building is situate, a copy of such representation, complaint, information, or closing order, and shall from time to time report to the council such particulars as the council require respecting any proceedings taken by the authority with reference to such representation, complaint, information, or dwelling-house."

This section shows how superior authorities may keep an eye

on smaller and inferior ones if local prejudice and power is opposed to a scheme. It is also the section which largely extends the Act to rural as opposed to urban districts.

Part III. of the Act refers to working-class lodging houses, and puts them under the control of local authorities working through the M. O. H. of the district; the persuasive powers of a local authority hereby granted were made compulsory by the next Act (*vide* below).

Part IV. is of no special medical interest except—

"Sec. 79.—(2) Every representation made by a medical officer of health in pursuance of this Act shall be in writing.

"Sec. 89. Where any person obstructs the medical officer of health, or any officer of the local authority, or of the confirming authority mentioned in Part I. of this Act, in the performance of anything which such officer or authority is by this Act required or authorised to do, such person shall, on summary conviction, be liable to a fine not exceeding twenty pounds," a special instance of the wide general powers given to an M. O. H.

This Act from which the above sections have been taken is known as "The Principal Act" on the subject. In 1909—

"9 Edw. 7, c. 44. An Act to amend the Law relating to the Housing of the Working Classes, to provide for the making of Town Planning schemes, and to make further provision with respect to the appointment and duties of county medical officers of health, and to provide for the establishment of Public Health and Housing Committees of County Councils. Dec. 3, 1909" was passed; of this, sec. 1 runs—

"Sec. 1. Part III. of the Housing of the Working Classes Act, 1890 (in this Part of this Act referred to as the principal Act), shall, after the commencement of this Act, extend to and take effect in every urban or rural district, or other place for which it has not been adopted, as if it had been so adopted."

Sec. 10 is also worth quotation, showing how local authorities may be kept up to the mark.

POWERS OF ENFORCING EXECUTION OF HOUSING ACTS.

"Sec. 10.—(1) Where a complaint is made to the Local Government Board—

"(a) as respects any rural district by the council of the county in which the district is situate, or by the parish council or parish meeting of any parish comprised in the district, or by any four inhabitant householders of the district; or

“ (b) as respects any county district, not being a rural district, by the council of the county in which the district is situated, or by four inhabitant householders of the district ; or

“ (c) as respects the area of any other local authority by four inhabitant householders of the area ;

that the local authority have failed to exercise their powers under Part II. or Part III. of the principal Act in cases where those powers ought to have been exercised, the Board may cause a public local inquiry to be held ” [and act according to results].

“ Sec. 12. Where a complaint is made to the council of a county by the parish council or parish meeting of any parish comprised in any rural district in the county, or by any four inhabitant householders of that district, the county council may cause a public local inquiry to be held, and if, after holding such an inquiry, the county council are satisfied that the rural district council have failed to exercise their powers under Part III. of the principal Act in cases where those powers ought to have been exercised, the county council may resolve that the powers of the district council for the purposes of that Part be transferred to the county council with respect either to the whole district or to any parish in the district, and those powers shall be transferred accordingly, and, subject to the provisions of this Act, section sixty-three of the Local Government Act, 1894, shall apply as if the powers had been transferred under that Act.”

A reference may here be inserted to p. 207, where parish councils are dealt with.

Sec. 43 made illegal the erection of back-to-back houses intended to be used as dwellings for the working classes.

Part III. of this Act relating to M. O. H's. has already been dealt with on p. 215 (*q.v.*).

FROM SCHEDULES TO THE 1890 AND 1909 ACTS I ADD THE FOLLOWING
LIST OF ACTS RELATING TO THE SUBJECT.

Session and Chapter.	Short Title.	Extent of Repeal.
14 & 15 Vict. c. 34.	The Labouring Classes Lodging Houses Act, 1851.	The whole Act.
18 & 19 Vict. c. 88.	The Dwelling Houses (Scotland) Act, 1855.	The whole Act.
29 & 30 Vict. c. 28.	The Labouring Classes Dwelling Houses Act, 1866.	The whole Act.

Session and Chapter.	Short Title.	Extent of Repeal.
29 & 30 Vict. c. 44.	The Labouring Classes Lodging Houses and Dwellings Act (Ireland), 1866.	The whole Act.
30 & 31 Vict. c. 28.	The Labouring Classes Dwelling Houses Act, 1867.	The whole Act.
31 & 32 Vict. c. 130.	The Artizans and Labourers Dwellings Act, 1868.	The whole Act.
38 & 39 Vict. c. 36.	The Artizans and Labourers Dwellings Improvement Act, 1875.	The whole Act.
38 & 39 Vict. c. 49.	The Artizans and Labourers Dwellings Improvement (Scotland) Act, 1875.	The whole Act.
42 & 43 Vict. c. 63.	The Artizans and Labourers Dwellings Improvement Act, 1879.	The whole Act.
42 & 43 Vict. c. 64.	The Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879.	The whole Act.
42 & 43 Vict. c. 77.	The Public Works Loans Act, 1879.	Section six.
43 Vict. c. 2	The Artizans and Labourers Dwellings Improvement (Scotland) Act, 1880.	The whole Act.
43 Vict. c. 8.	An Act to explain and amend the twenty-second section of the Artizans and Labourers Dwellings Act (1868) Amendment Act, 1879.	The whole Act.
45 & 46 Vict. c. 54.	The Artizans Dwellings Act, 1882.	The whole Act.
48 & 49 Vict. c. 72.	The Housing of the Working Classes Act, 1885.	The whole Act except sections three and seven to nine, and except section ten so far as it relates to byelaws authorised by those sections.
59 & 60 Vict. c. 31.	The Housing of the Working Classes Act, 1890, Amendment (Scotland) Act, 1896.	Section three.
63 & 64 Vict. c. 59.	The Housing of the Working Classes Act, 1900.	Sections two, six, and seven. In section eight the words "Scotland or"

Session and Chapter.	Short Title.	Extent of Repeal.
3 Edw. 7. c. 39.	The Housing of the Working Classes Act, 1903.	Paragraphs (a) and (b) of subsection (2) of section five, section six and eight, in section ten the words "in the manner provided by subsection three of section thirty-two of the principle Act," and section sixteen. In section seventeen the words "Scotland or "

Though it must be admitted the list is of very little use except for reference.

FOR IRELAND.

48 & 49 Vic. c. 77. 1885. No special medical interest.

CHAPTER IX *(continued)*

G. Legislation referring to Ships and Ports.

There are three somewhat separate branches of this subject, viz., (1) the ordinary medical duties concerning ships' crews and passengers; and (2) the relations, when in port, of a ship's medical officer with other sanitary authorities, and (3) the powers and duties of land sanitary authorities over ships in port.

The first of these is comparatively simple, and for information on it we must turn to the various Merchant Shipping Acts. [I do not include H.M. Naval Service in this work at all.]

So far as medical interest is concerned we may ignore all Merchant Shipping Acts [they number over thirty, dating from 1854] prior to "57 & 58 Vic. c. 60. *An Act to consolidate enactments relating to Merchant Shipping.* Aug. 25, 1894."

The Act itself is a very long one, containing 748 sections dealing of course mainly with non-medical matters. The following are the sections of chief concern to medical practitioners; two of them, viz., 207 and a portion of 208, are (as they were enacted in 1894) not inserted but instead are replaced by secs. 34 and 35 of "6 Edw. 7, c. 48. *An Act to amend the Merchant Shipping Acts, 1894 to 1900.* Dec. 21, 1906." An Act not noted in this work elsewhere than in these two sections.

MERCHANT SHIPPING ACT, 1894.

"Sec. 200.—(1) *The Board of Trade shall issue scales of medicines and medical stores suitable for different classes of ships and voyages, and shall also prepare or sanction books containing instructions for dispensing the same.*

"(2) *The owner of every ship navigating between the United Kingdom and any place out of the same shall provide and cause to be kept on board, a supply of medicine and medical stores according to the scale [above (1)], appropriate to the ship.*

"(3) *The master or owner of every such ship, except in the case of—*

"(a) *ships bound to European ports or ports in the Mediterranean sea; and*

“(b) . . . ships bound to ports on the East coast of America or to Islands or places in the Atlantic Ocean in each case north of 35° N. Lat.

shall provide and cause to be kept on board a sufficient quantity of antiscorbutics . . . the master shall serve them out . . . and if a seaman or apprentice refuses or neglects to take his ration of them that fact shall be entered in the official log-book and signed by . . . and also by the medical practitioner on board (if any).” [antiscorbutics are defined in the fifth schedule to be lime or lemon-juice with 15 per cent. proper and palatable proof spirit to be served out with sugar at the rate of one ounce a day per person.]

“(7) If any person manufactures, sells or keeps, or offers for sale, any medicines or medical stores for use on board ship which are of bad quality he shall for each offence be liable to a fine not exceeding twenty pounds.

“Sec. 201. The master of a ship shall keep on board proper weights and measures for determining the quantities of . . . articles served out ” [penalty, ten pounds].

“Sec. 202.—(1) It shall be the duty of the medical inspector of ships for the port appointed under this Act . . . to inspect the medicines, medical stores, and antiscorbutics . . . required by this Act.”

(2) For this purpose a medical inspector has all the powers of a Board of Trade inspector under this Act.

“(3) The medical inspector of ships shall make his inspection three clear days at least before the ship proceeds to sea . . . and where the result is satisfactory shall not make another inspection before the ship proceeds to sea unless he has reason to suspect that any of the articles inspected have been subsequently removed, injured, or destroyed.

“(4) If the medical inspector of ships is of opinion that the articles inspected are deficient in quantity or quality, or are placed in improper vessels, he shall give notice in writing to the chief officer of customs of the port where the ship is lying, also to the master-owner, or consignee thereof, and the master of the ship before proceeding to sea shall produce to the chief officer of the customs a certificate under the hand of the same or some other medical inspector of ships, that the default found by the inspector has been remedied, and if that certificate is not produced, the ship shall be detained until the certificate is produced. . . .” Penalty, twenty pounds for going without the certificate.

“Sec. 203.—(1) A medical inspector of seamen, appointed under this part of this Act, shall on application by the owner or master of any ship, examine any seaman applying for employment in that

ship, and give to the superintendent a report under his hand stating whether the seaman is in a fit state for duty at sea . . .

"Sec. 204.—(1) The local marine board at a port may upon being required by the Board of Trade to do so, appoint and remove a medical inspector of ships for the port and subject to the control of the Board of Trade, may fix his remuneration, and at any port where there is no local marine board, the Board of Trade may appoint and remove a medical inspector of ships and may fix his remuneration."

(2) The same conditions as (1) apply to a medical inspector of seamen.

"Sec. 205. The Governor of a British possession shall have the power in that possession—

"(a) of appointing medical inspectors of seamen . . . and determining his remuneration ;

"(b) make regulations for the supply of antiscorbutics."

Sec. 206. Gives power to the Board of Trade to appoint officers (medical or other) to inspect the food and stores generally on board ship.

Sec. 207. Replaced by sec. 34 of 1906 Act (6 Edw. 7, c. 48), which runs :—

"(1) If the master of, or a seaman belonging to a ship receives any hurt or injury in the service of the ship, or suffers from any illness (not being venereal disease, or an illness due to his own wilful act or default, or his own misbehaviour), the expense of providing the necessary surgical and medical advice and attendance and medicine . . . until he is cured or dies, or is returned to a proper return port . . . shall be defrayed by the owner of the ship . . .

"(2) If the master or a seaman is on account of any illness temporarily removed from his ship . . . and subsequently returns to his duty the expense . . . of providing the necessary advice and attendance and medicine while away from the ship shall be defrayed in like manner.

"(3) The expenses of all medicines, surgical and medical advice and attendance given to a master or seaman whilst on board his ship shall be defrayed in like manner.

"(4) In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness . . . shall if duly proved be deducted from the wages of the seaman."

[Sec. 25 of the 1906 Act makes these expenses, when paid under this Act, a charge upon the ship ultimately and recoverable from the master or owner at the time of the occurrence of the illness or injury.]

"Sec. 209.—(1) Every foreign going ship, having one hundred persons or upwards on board shall carry on board as part of her

complement some duly qualified medical practitioner . . . [penalty £100].

"This does not apply to an emigrant ship within the meaning of the third part of this Act (vide secs. 300, &c.)."

Sec. 210. Provides for 72 cubic feet of space for each sailor.

"Sec. 239.—(5) Every entry in the official log book shall be signed by the master . . . and also (a) if it is an entry of illness, injury, or death . . . by the surgeon or medical practitioner on board (if any);"

such entry *must* be made by Sec. 240 (5) which says "*every case of illness or injury happening to a member of the crew, with the nature thereof, and the medical treatment adopted (if any)*" must be logged.

Sec. 244. Provides for the appointment of local marine boards under the superintendence of the Board of Trade, and to these local marine boards may apparently be entrusted the appointment of medical inspectors of ships and of seamen and of emigrant inspectors.

"Sec. 300.—(1) The owner or charterer of every emigrant ship shall provide . . . a supply of the following things (in this part of the Act referred to as medical stores), namely, medicines, medical comforts, instruments, disinfectants, and other things proper and necessary for diseases and accidents incident to sea voyages and for the medical treatment of the steerage passengers during the voyage with written directions for the use of such medical stores.

"(2) The medical stores shall in the judgment of the emigration officer at the port of clearance, be good in quality and sufficient in quantity for the probable exigencies of the intended voyage and shall be properly packed and placed under the charge of the medical practitioner, when there is one on board, to be used at his discretion."

(3) [penalty £50].

"(4) An emigrant ship shall not clear outwards or proceed to sea unless a medical practitioner appointed by the emigration officer at the port of clearance has inspected the said medical stores and certified that they are sufficient in quality and quantity . . .

"Sec. 303.—(1) Subject to any regulations made by an Order in Council under this part of the Act, a duly authorised medical practitioner shall be carried on board an emigrant ship—

"(a) where the number of steerage passengers exceeds fifty, and also

"(b) where the total number of persons on board exceeds three hundred.

"(2) A medical practitioner shall not be considered to be duly authorised for the purposes of this Act unless—

“(a) *he is a registered medical practitioner in some part of H. Majesty's dominions or in the case of a foreign ship, in the country to which that ship belongs ; and*

“(b) *his name has been noted to the emigration officer at the port of clearance and has not been objected to by him ; and*

“(c) *he is provided with proper surgical instruments to the satisfaction of that officer.”*

(4) He shall be rated on the ship's articles.

“Sec. 306.—(1) *An emigrant ship shall not clear outwards or proceed to sea until—*

“(a) *either a medical practitioner appointed by the emigration officer at the port of clearance has inspected all the steerage passengers and crew . . . and has certified to the emigration officer . . . that none of them appear to be by reason of any bodily or mental disease unfit to proceed, or likely to endanger the health or safety of the other persons on board ; or*

“(b) *the emigration officer, if he cannot obtain the attendance of a medical practitioner, grants written permission.”*

“324. *H. Majesty may by Order in Council make regulations*
 . . .”

“(v.) *For requiring duly authorised medical practitioners to be carried in emigrant ships where they would not otherwise under this part of the Act be required to be carried.”*

Sec. 690. Provides for a death on board to be inquired into by the superintendent at the port of discharge.

Sec. 713. Makes the Board of Trade the department to undertake the general superintendence of all matters relating to merchant shipping.

COMMENTS ON THIS BRANCH OF MEDICAL PRACTITIONER'S WORK.

There are three offices which have to be filled by medical practitioners under these sections, viz. (a) medical officer on board a ship ; (b) medical inspector of ships and their stores (medicine chest, &c.) ; (c) medical inspector of seamen before going on board.

I have nothing much to say about the ordinary medical duties of any of these officers ; they are fairly clearly laid down by the Act in the sections above quoted.

A very reasonable attempt is now being made by members of class (a) to get permission to look upon first and second class passengers on board ship as private patients, and to charge fees accordingly for attendance on them. Their official pay for looking after the crew and steerage passengers is small enough in

all conscience, though there are, of course, compensating advantages attached to the position outside professional considerations, and certainly there is no obvious reason why such arrangements should not be made, though it is equally obvious that legislation on the subject is not likely to be brought in, and the matter cannot be argued out here, as we are dealing almost exclusively with actual legal enactments.

At the end of the next subsection a few comments will be found on the possibilities of the sanitary duties of the officer clashing either in area of jurisdiction or in execution.

PORT SANITARY AUTHORITIES.

By secs. 287—292 of the Public Health Act, 1875, the first formation of port sanitary authorities is dealt with.

Sec. 287 allows the Local Government Board the power by order "*to constitute any local authority whose district or part of whose district forms part of or abuts on any part of a port in England or the waters of such port . . . the sanitary authority of the whole of such port or of any part thereof (in this Act referred to as the Port Sanitary Authority).*"

"Any order constituting a port sanitary authority may assign to such authority any powers, rights, duties, capacities, liabilities, and obligations under this Act.

"Sec. 288. The order . . . shall be deemed to give such authority jurisdiction over all waters within the limit of such port . . ." and adjoining land.

We then have to turn back to sec. 110 of the same Act of 1875 which runs—

"Sec. 110. For the purpose of the provisions of this Act relating to nuisance, any ship or vessel lying in any river, harbour, or other water within the district of a local authority shall be subject to the jurisdiction of that authority in the same manner as if it were a house within such district . . .

"The master or other officer in charge of any such ship or vessel shall be deemed . . . to be the occupier of such ship or vessel."

In order that there might be no doubt on the matter, and to extend the M. O. H's. duties in all respects to ships "48 & 49 Vic. c. 35. An Act to amend the Public Health Act, 1875, in relation to ships and Port Sanitary authorities. July 31, 1885," was passed.

Sec. 2 of which runs—

"Sec. 110 of the Principal Act [The Public Health Act, 1875] shall have effect not only for the purpose of the provisions of that Act relating to nuisances, but also for the purpose of such of the provisions

of that Act relating to infectious diseases and hospitals as are referred to in the schedule to this Act.

The schedule enumerates secs. 120, 121, 124, 125, 126, 128, 131, 132, 133 of the 1875 Act, with most of which or their more recent substitutes we have dealt (above, pp. 231 *et seq.*), and then further—

“ 59 & 60 Vic. c. 20. *An Act to amend the Public Health Act, with respect to the Powers of Port sanitary authorities.* Aug. 7, 1896,” states “*The Local Government Board may by order assign any port sanitary authority any powers, rights, duties, capacities and obligations under the Infectious Disease Prevention Act, 1890, with the necessary modifications.*”

As a matter closely connected with ships, and also as a section showing how Public Health officers may get their duties mixed up, I here insert sec. 138 of the Public Health Act of 1875. It is true that fees are the subject-matter of the section, but these fees are earned by a somewhat curious inter-relation of duties, which is my immediate point.

The section runs—

“ 138. *Whenever in compliance with a regulation of the Local Government Board [in relation to checking epidemic disease] any poor law medical officer performs any medical service on board any vessel he shall be entitled to charge extra for such service at the general rate of his allowance for services for the union or place for which he is appointed . . .*

“ *Where such services are rendered by any medical practitioner who is not a poor law medical officer he shall be entitled to charges for any services rendered on board, with extra remuneration on account of distance, at the same rate as those which he is in the habit of receiving from private patients of the class of those attended and treated on shipboard . . .*” [dispute to be settled by a Court of summary jurisdiction.]

COMMENTS ON THE ABOVE.

So far as I can make out from the above sections themselves, and from inquiry from the medical officers of the port of London sanitary authority, all sanitary matters, matters relating to infectious disease in crews or passengers, matters relating to passing or condemning food cargoes, work out as follows: The M. O. H. of the urban sanitary authority is the man in supreme charge and upon whom final and full responsibility rests for whatever action may be taken. He certainly cannot be the medical officer on board a ship, and therefore this latter officer must make his report to the M. O. H. of the district on anything upon which he

must, or wishes to, comment. He certainly may be a medical inspector of ships and also a medical inspector of seamen and also a medical inspector under the Aliens Act (*vide* p. 291, below), and consequently may in one capacity make a report to himself in another capacity, but whether this be so or not, these various medical inspectors must in the first place make their reports, *i.e.*, if anything is wrong in the way of infectious disease or sanitary arrangements, to the M. O. H. of the district, and on him must fall the responsibility of taking whatever action is necessary, whether this be further reporting to other authorities or summary procedure in seizing bad food, &c., or taking care of infected persons or property, &c.

I have to thank Dr. James Godding for the following note on the relationship of port sanitary authorities to other Medical Officers of Health, &c.

“The provisions of the Public Health (London) Act, 1891, are similar to those now extended to the rest of the country.

“In London a Medical Officer of Health for the Port (of London) Sanitary Authority has jurisdiction over the whole of the river from Teddington to Sheerness; this includes both banks, the docks, &c., also ships and other vessels in dock buildings within the dock walls [Public Health (London) Act, 1891, c. 76, 112.]

“Other port sanitary authorities who have a Medical Officer of Health appointed especially for the port are on the same lines, and the port M. O. H. has jurisdiction extending over vessels in river and dock.

“Where no M. O. H. has been specially appointed for the port, then the Public Health (London) Act, 1891, c. 76, 110, provides that ‘For any purposes of this Act any vessel lying in any river or other water within the district of a sanitary authority shall be subject to the jurisdiction of that authority in the same manner as if it were a house within such district.’

“At some ports—*e.g.* London—the provisions of the Merchant Shipping Act is carried out by the Board of Trade itself; at other ports Local Marine Boards are established for carrying into effect the Act under the superintendence of the Board of Trade (Merchant Shipping Act, 1894, Sch. 7).

“Two different medical men are appointed either by the Board of Trade itself or at a port where there is a Local Marine Board by that board, *viz.*, (1) Medical inspector of seamen; (2) medical inspector of ships.

“The medical inspection of seamen is not compulsory, and the inspector only acts on application of the owner or master of any

ship ; his only duties are to examine the seamen and report on their fitness for duty at sea (Merchant Shipping Act, 1894, c. 60, 203).

“ The medical inspector of ships is appointed by and is under the Local Marine Board, or where there is no Local Marine Board (as in London), by the Board of Trade itself. His duties are specified in the Merchant Shipping Act, 1894, c. 60, 202, where it is shown that he inspects the medicines, medical stores and antiscorbutics with which the ship is required to be provided—under certain conditions and in certain ships the food and water is inspected by inspecting officers appointed for that purpose (not necessarily medical men : Merchant Shipping Act, c. 60, Sec. 206).

“ In the case of emigrant ships a medical practitioner, appointed by the emigration officer at the port of clearance, has to certify that he has inspected all the steerage passengers and crew about to proceed in the ship, to the emigration officer ; and that officer has to be satisfied that none of the steerage passengers or crew appear to be, by reason of any bodily or medical disease, unfit to proceed or likely to endanger the health or safety of the other persons about to proceed in the ship (Merchant Shipping Act, c. 60, Sec. 306).

“ Certain ports are ports of immigration for the working of the Aliens Act, and the Secretary of State appoints at such ports immigration officers and medical inspectors to work the Act (Aliens Act, 1905, c. 13, Sec. 6).

“ In London the M. O. H. for the port sanitary authority is appointed to work the Aliens Act in the port of London.

“ The foregoing are most of the statutes dealing with the various medical men that come into touch with the Mercantile Marine.

“ If a case of any notifiable infectious disease is discovered at a port either on a ship, or other vessel, in the river, or in the dock itself where there is a Medical Officer of Health appointed (Port Sanitary Authority) the Medical Officer of Health of the port is the person who has jurisdiction ; he has to be notified, and he is the person who acts on the notification sent him by the practitioner, or if he is called direct by the master of the ship or other person, he visits and acts—by having the case removed to the Port Sanitary Hospital (if there is one) or making the necessary arrangements direct with the authorities of other infectious diseases hospitals. In this case the M. O. H. of the district has no jurisdiction ; he is not notified, and he takes no action.

“ In districts where there is no Medical Officer of Health appointed for the port, a case occurring on a ship, &c., is

notifiable to the M. O. H. of the district who decides and acts.

“Now, take the case of the medical inspector of ships appointed by the Board of Trade or Local Marine Board. His duties are to examine medical stores, &c., not persons. If he is appointed to act as medical inspector of passengers or emigrant ships, then his duties are to examine emigrants or passengers or crew of such ships, and the arrangements made by shipping companies for their accommodation, and it is his duty to notify the M. O. H. of the Port Sanitary Authority of any infectious case of disease he may discover in performing the above duties. He has no further powers, and the Medical Officer of Health for the port is the person who acts with respect to removal, disinfection, &c. If he is inspecting in a port where there is no Medical Officer of Health for the port, then he notifies the M. O. H. of the district if he discovers any infectious disease.

“Canal boats: The sanitary authority of the district in which the canal is situated, and in which there is a canal-boat with a case of infectious disease on board, has power to take such steps as may, by the certificate of their Medical Officer of Health, or any other legally qualified practitioner, appear requisite for preventing the said disorder from spreading, and may remove the patient or detain the boat (Canal Boats Act, 1877, Sec. 60, 4).”

CHAPTER IX (concluded)

H. Aliens Act, 1905.

" 5 Edw. 7 c. 13. *An Act to amend the Law with regard to Aliens.* Aug. 11, 1905."

This Act has interest only for a limited number of medical practitioners but as they have duties under the Act it must be noted.

It would appear, in 1912, not to be working very satisfactorily, for through its meshes seem to be slipping a fairly considerable number of undesirable aliens, some of whom at any rate have adopted the practice of taking first-class tickets with a view to more easily escaping the eyes of the immigrant inspector.

" Sec. 1.—(1) *An immigrant shall not be landed in the United Kingdom from an immigrant ship except at a port at which there is an immigrant officer appointed under this Act*" [by rules of the Secretary of State for the Home Department under the Aliens Act, 1905, these ports are some thirteen in number for England, Scotland and Wales. They need not be further specified; in Ireland they include some five or six] "*and shall not be landed at any such port without the leave of that officer given after inspection . . . in company with a medical inspector . . .*

" Sec. 6.—(1) *The Secretary of State shall appoint . . . medical inspectors . . . and the salary and remuneration of . . . inspectors so appointed . . . shall up to an amount approved by the Treasury be paid out of moneys provided by Parliament.*"

These are the only two sections of the Act dealing with medical inspectors. In December, 1905, the Home Secretary issued certain rules under the Act of which the following refer to such inspectors.

(2) Where the Medical Inspector is of opinion that an alien is an undesirable immigrant within the meaning of Section 1 (3) (b) of the Act, which runs: "*If he be a lunatic or an idiot or owing to any disease or infirmity appears likely to become a charge upon the rates or otherwise a detriment to the public.*" He shall state his opinion in Form I., and deliver the Form to the immigration officer.

FORM I.

Opinion of Medical Inspector.

I am of opinion that the alien immigrant named . . . brought to the United Kingdom in the ship . . .

Strike out words which do not apply.	{	is a lunatic or idiot ; or is suffering from . . . and appears likely on that account to become a charge on the rates or otherwise a detriment to the public.
		Signature

Medical Inspector.

Date

Rule 9. Where an immigrant should, in the opinion of the Port Medical Officer of Health or Medical Inspector be removed for treatment or observation at a hospital, he shall be conditionally disembarked for the purpose and shall be liable, before release from hospital, to inspection for the purposes of the Act.

Rule 12. A Medical Inspector when unable personally to perform his duties may act through a duly qualified assistant. . . .

Apparently from these rules port Medical Officers of Health are the men commonly chosen for the post of medical inspectors, otherwise Rule 9 might give rise to friction. The use to which a hospital is to be put by Rule 9 equally obviously suggests that a hospital under municipal control, and not a voluntarily supported charitable hospital, is meant.

CHAPTER X

ACTS RELATING TO ACCIDENTS AND TRADE DISEASES

UNDER the heading of "Factory Surgeon" we have already, on p. 266, considered, or rather mentioned, a good many Acts dealing with the preventive aspect of this subject in the shape of precautions to be taken for fencing machinery, ventilation of workshops, provision of lavatory accommodation, &c. Here we have to consider the legislation which provides compensation to the workman when accident or disease has arisen. The Acts dealing with this aspect are comparatively few in number.

The earliest Act that need be noted is known as Lord Campbell's Act; this was the first charter (so to speak) of the workman killed in the execution of his duty. So far as it is necessary to quote it, it runs:—

"9 & 10 Vic. c. 93. *An Act for compensating the Families of Persons killed by Accidents.* Aug. 26, 1846.

"Whereas no Action at Law is now maintainable against a Person who by his wrongful Act, Neglect, or Default, may have caused the Death of another Person . . . be it enacted . . . that whensoever the Death of a Person shall be caused by wrongful Act, Neglect or Default . . . the Person who would have been liable if Death had not ensued shall be liable to an Action for Damages . . ."

"27 & 28 Vic. c. 95, 1864," amended the above in certain legal particulars of no medical interest.

I need make no further comment on these two as, though they have not been repealed and are still from time to time used, they possess no features of special interest to medical practitioners, who can only be called upon under them to give ordinary evidence of the cause of death.

"38 & 39 Vic. c. 90. *An Act to enlarge the powers of County Courts in respect of disputes between employers and workmen* . . . Aug. 13, 1875," known as the Employers and Workmen Act, 1875, is of no medical interest, except in so far that under it (disputes as to contracts of work) medical practitioners might be called upon to give certificates of inability to work on behalf of the workman. This too will receive no further notice.

The next Act in this connection is "43 & 44 Vic. c. 42. *An Act to extend and regulate the Liability of Employers to make*

Compensation for Personal Injuries suffered by Workmen in their service. Sept. 7, 1880," known as the Employers Liability Act, and still considerably used as an alternative to the Workmen's Compensation Act. It applies to Ireland and Scotland with the proper modifications in procedure and nomenclature.

Here again there are no sections of medical interest. Sec. 7 says "*Notice in respect of an injury under this Act . . . shall state in ordinary language the cause of the injury,*" and no reference whatever appears in the Act as to medical certificates being required by either party to an action. What can be said in this respect will be found in ordinary works on medical jurisprudence under Reports, Evidence, &c.

We next come to "*60 & 61 Vic. c. 37. Known as The Workmen's Compensation Act, 1897, and 63 & 64 Vic. c. 22. Extending the 1897 Act to workmen in Agriculture. July, 1900,*" which need not be further referred to, as they were entirely repealed by and absorbed into the Act of 1906 below.

We now come to the final, at least the latest Act on the subject, viz., "*6 Edw. 7, c. 58. An Act to consolidate and amend the Law with respect to compensation to Workmen for Injuries suffered in the course of their employment. Dec. 21, 1906,*" from which and on which, considerable quotations and comments must be made. With suitable alteration of terms the Act is applied to Scotland and to Ireland.

"*Sec. 1. . . . personal injury by accident arising out of and in the course of the employment . . .*"

The words "out of and in the course of" have given rise to many long legal arguments, but these are of no medical interest; meal times, and ways of access to, and egress from, work are the main themes of dispute.

The word "accident" is much closer to a medical man's province, but unfortunately the law has stepped in and made many things accidents which by no stretch of ordinary language or thought could a medical man have ever conceived of as being such. I cannot here possibly discuss the matter, but must refer the reader to Taylor, Vol. I., or better still to Butterworth's series of cases and judgments on the matter.

Secs. 2 to 7 are of general interest only and need not be referred to for medical purposes.

Sec. 8 runs :—

" 8.—(1) *Where—*

" (i) *the certifying surgeon appointed under the Factory and Workshop Act, 1901, for the district in which a workman is employed certifies that the workman is suffering from*

a disease mentioned in the Third Schedule to this Act and is thereby disabled from earning full wages at the work at which he was employed ; or

“ (ii) a workman is, in pursuance of any special rules or regulations made under the Factory and Workshop Act, 1901, suspended from his usual employment on account of having contracted any such disease ; or

“ (iii) the death of a workman is caused by any such disease ; and the disease is due to the nature of any employment in which the workman was employed at any time within the twelve months previous to the date of the disablement or suspension, whether under one or more employers, he or his dependants shall be entitled to compensation under this Act as if the disease or such suspension as aforesaid were a personal injury by accident arising out of and in the course of that employment, subject to the following modifications :—

“ (a) The disablement or suspension shall be treated as the happening of the accident ;

“ (b) If it is proved that the workman has at the time of entering the employment wilfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable ;

“ (c) The compensation shall be recoverable from the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due :

“ Provided that—

“ (i.) the workman or his dependants if so required shall furnish that employer with such information as to the names and addresses of all the other employers who employed him in the employment during the said twelve months as he or they may possess, and, if such information is not furnished, or is not sufficient to enable that employer to take proceedings under the next following proviso, that employer upon proving that the disease was not contracted whilst the workman was in his employment shall not be liable to pay compensation ; and

“ (ii.) if that employer alleges that the disease was in fact contracted whilst the workman was in the employment of some other employer, and not whilst in his employment, he may join such other employer as a party to the arbitration, and if the allegation is proved that other employer shall be the employer from whom the compensation is to be recoverable ; and

" (iii.) if the disease is of such a nature as to be contracted by a gradual process, any other employers who during the said twelve months employed the workman in the employment to the nature of which the disease was due shall be liable to make to the employer from whom compensation is recoverable such contributions as, in default of agreement, may be determined in the arbitration under this Act for settling the amount of the compensation ;

" (d) The amount of the compensation shall be calculated with reference to the earnings of the workman under the employer from whom the compensation is recoverable ;

" (e) The employer to whom notice of the death, disablement, or suspension is to be given shall be the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due, and the notice may be given notwithstanding that the workman has voluntarily left his employment.

" (f) If an employer or a workman is aggrieved by the action of a certifying or other surgeon in giving or refusing to give a certificate of disablement or in suspending or refusing to suspend a workman for the purposes of this section, the matter shall in accordance with regulations made by the Secretary of State be referred to a medical referee, whose decision shall be final.

" (2) If the workman at or immediately before the date of the disablement or suspension was employed in any process mentioned in the second column of the Third Schedule to this Act, and the disease contracted is the disease in the first column of that Schedule set opposite the description of the process, the disease, except where the certifying surgeon certified that in his opinion the disease was not due to the nature of the employment, shall be deemed to have been due to the nature of that employment, unless the employer proves the contrary.

" (3) The Secretary of State may make rules regulating the duties and fees of certifying and other surgeons (including dentists) under this section.

" (4) For the purposes of this section the date of disablement shall be such date as the certifying surgeon certifies as the date on which the disablement commenced, or, if he is unable to certify such a date, the date on which the certificate is given : Provided that—

" (a) Where the medical referee allows an appeal against a refusal by a certifying surgeon to give a certificate of disablement, the date of disablement shall be such date as the medical referee may determine :

“(b) Where a workman dies without having obtained a certificate of disablement, or is at the time of death not in receipt of a weekly payment on account of disablement, it shall be the date of death.

“(5) In such cases, and subject to such conditions as the Secretary of State may direct, a medical practitioner appointed by the Secretary of State for the purpose shall have the powers and duties of a certifying surgeon under this section, and this section shall be construed accordingly.

“(6) The Secretary of State may make orders for extending the provisions of this section to other diseases and other processes, and to injuries due to the nature of any employment specified in the order not being injuries by accident, either without modification or subject to such modifications as may be contained in the order.

“(10) Nothing in this section shall affect the rights of a workman to recover compensation in respect of a disease to which this section does not apply, if the disease is a personal injury by accident within the meaning of this Act.”

In this section with its sub-clauses, we have the first recognition of trade diseases as such, apart from ordinary ailments.

I have left in several subsections, regarding the chronicity and insidious onset of these diseases, which though not primarily medical, are found in practice to involve a considerable amount of professional skill and knowledge of the onset and duration of the named troubles.

Since the Act came into operation, more than once has a departmental committee sat and considered the schedules of what should and should not be considered a “Trade Disease” within the meaning of the Act. For a full discussion of the evidence, *vide* Taylor, Vol. I. Here I can only give the actual results of the committee’s investigation, which are as follows:—

The original schedule in the Act was—

Description of Disease.	Description of Process.
Anthrax - - -	Handling of wool, hair, bristles, hides, and skins.
Lead poisoning or its sequelæ.	Any process involving the use of lead or its preparations or compounds.
Mercury poisoning or its sequelæ.	Any process involving the use of mercury or its preparations or compounds.
Phosphorus poisoning or its sequelæ.	Any process involving the use of phosphorus or its preparations or compounds.
Arsenic poisoning or its sequelæ.	Any process involving the use of arsenic or its preparations or compounds.
Ankylostomiasis - -	Mining.

Where regulations or special rules made under any Act of Parliament for the protection of persons employed in any industry against the risk of contracting lead poisoning require some or all of the persons employed in certain processes specified in the regulations or special rules to be periodically examined by a certifying or other surgeon, then, in the application of this schedule to that industry, the expression "process" shall, unless the Secretary of State otherwise directs, include only the processes so specified.

To these must be added as the result of the Departmental Committee's report in 1907—

Description of Disease.	Description of Process.
Poisoning by nitro- and amido-derivatives of benzene (dinitro-benzol, anilin and others), or its sequelæ.	Any process involving the use of a nitro- or amido-derivative of benzene, or its preparations or compounds.
Poisoning by carbon bisulphide or its sequelæ.	Any process involving the use of carbon bisulphide, or its preparations or compounds.
Poisoning by nitrous fumes or its sequelæ.	Any process in which nitrous fumes are evolved.
Poisoning by nickel carbonyl or its sequelæ.	Any process in which nickel carbonyl gas is evolved.
Arsenic poisoning or its sequelæ.	Handling of arsenic, or its preparations or compounds.
Lead poisoning or its sequelæ.	Handling of lead, or its preparations or compounds.
Poisoning by <i>Gonioma Kamassi</i> (African boxwood) or its sequelæ.	Any process in the manufacture of articles from <i>Gonioma Kamassi</i> (African boxwood).
Chrome ulceration or its sequelæ.	Any process involving the use of chromic acid or bi-chromate of ammonium, potassium, or sodium or their preparations.
Epitheliomatous cancer or ulceration of the skin or of the corneal surface of the eye, due to pitch, tar, or tarry compounds.	Handling or use of pitch, tar, or tarry compounds.
Scrotal epithelioma (chimney-sweepers' cancer).	Chimney-sweeping.
Nystagmus - - -	Mining.
Glanders - - -	Care of any equine animal suffering from glanders; handling the carcass of such animal.
Compressed air illness or its sequelæ.	Any process carried on in compressed air.
Subcutaneous cellulitis of the hand (beat hand).	Mining.
Subcutaneous cellulitis over the patella (miners' beat knee).	Mining.

Description of Disease.	Description of Process.
Acute bursitis over the elbow (miners' beat elbow).	Mining.
Inflammation of the synovial lining of the wrist joint and tendon sheaths.	Mining.

and then further, by order in December, 1908—

Description of Disease or Injury.	Description of Process.
Cataract in glassworkers ..	Processes in the manufacture of glass involving exposure to the glare of molten glass.
Telegraphists' cramp	Use of telegraphic instruments.
Eczematous ulceration of the skin produced by dust or liquids, or ulceration of the mucous membrane of the nose or mouth produced by dust.	

In the application of the provisions of section 8 to telegraphists cramp, so far as regards a workman employed by the Postmaster-General, the Post Office Medical Officer under whose charge the workman is placed shall, if authorised to act for the purposes of the said section by the Postmaster-General, be substituted for the Certifying Surgeon, and shall be entitled for such certificate to the same fee as is prescribed for a Certifying Surgeon under No. 7 (1) (a) of the Regulations.

Attention should be drawn to the word "sequelæ" in connection with several of the poisons. These are sometimes easy, sometimes difficult to define (*vide* Taylor, Vol. I., for full discussion).

I now add some notes on other points in the section.

Extract from the regulations issued to certifying surgeons, referred to on p. 270, and also sent to referees.

II.—RULES MADE UNDER SECTION 8 AS TO DUTIES AND FEES OF CERTIFYING SURGEONS, &C., IN ENGLAND AND WALES.

Definitions.

1. In these regulations :—

(i.) "Act," means the Workmen's Compensation Act, 1906.

(ii.) "Workman," means a workman as defined in section 13 of the Act.

- (iii.) "Certifying surgeon," means either the Certifying Surgeon mentioned in subsection (1) (i) of section 8 of the Act, or a medical practitioner appointed by the Secretary of State under subsection (5) of section 8, to have the powers and duties of certifying surgeon under the said section.
- (iv.) "Appointed Surgeon," means a surgeon having power, in pursuance of any special rules or regulations made under the Factory and Workshop Act, 1901, to suspend the workman from employment in the process or processes specified in such rules or regulations.
- (v.) "Medical referee," means a medical practitioner appointed by the Secretary of State to act as medical referee for the purpose of Section 8 of the Act.
- (vi.) The words "disease to which the Act applies," means a disease mentioned in the third schedule to the Act or a disease or injury (not being an injury by accident), to which the provisions of section 8 of the Act have been extended by an order made by the Secretary of State under subsection (6) of that section.

2. Where a workman applies to a certifying surgeon for a certificate (hereinafter called "a certificate of disablement"), that he is suffering from a disease to which the Act applies, and is thereby disabled from earning full wages at the work at which he was employed, the certifying surgeon, on payment of the prescribed fee, and after obtaining the particulars specified in the schedule to these regulations and such further information, if any, respecting the case, as in the particular circumstances he may deem necessary, shall either proceed at once, if the application is made by the workman in person, to make a medical examination of the workman, or shall appoint forthwith a time and place for making such examination, and give notice thereof to the workman. Such notice, if given in writing, shall follow as closely as may be, the form prescribed in the schedule.

3. After personally examining the workman, the certifying surgeon shall either give the workman a certificate of disablement or shall certify that he is not satisfied that the workman is entitled to such certificate, and shall in either case deliver his certificate to the workman. The certificate given shall be in the form prescribed in the schedule to these regulations.

4. Where in pursuance of any special rules or regulations made under the Factory and Workshop Act, 1901, the certifying or appointed surgeon, after having personally examined a workman, suspends him from his usual employment on account of his having contracted any disease to which the Act applies, or where in the case of a workman applying to be suspended on account of his having contracted any such disease, the surgeon as aforesaid, after having personally examined such workman, refuses to order his suspension, he shall, on the application either of the employer or of the workman, and on payment of the prescribed fee, certify such suspension or refusal to suspend in accordance with the form prescribed in the schedule to these regulations, and shall deliver such certificate to the applicant.

5. Where a certificate of disablement is given or a workman is suspended, and the case is one in which, under the provisions of subsection (2) of section 8 of the Act, as extended by any order of the Secretary of State, made under subsection (6) of the said section, the disease contracted by the workman will be deemed, unless the employer proves, or the certifying surgeon certifies, to the contrary,

to have been due to the nature of the employment in the process in which at or immediately before the date of the disablement or suspension of the workman employed, the certifying surgeon, if he is of opinion that the disease contracted by the workman was not due to the nature of such employment, shall certify accordingly. Such certificate shall, where possible, be given simultaneously with, and included in, the certificate of disablement or the certificate (if any) of suspension, but may also be given separately on application by the employer and on payment of the prescribed fee; and in either case shall follow the form prescribed in the schedule to these regulations.

For the purpose of this regulation an appointed surgeon shall have the same powers and duties as a certifying surgeon.

6. A copy of any certificate given by a certifying or appointed surgeon under the foregoing regulations shall, together with any other documents relating to the case, be retained and kept by the surgeon, and copies of any such certificate shall, on payment of the prescribed fee, be supplied by the surgeon to the employer and the workman.

7. The fees which the certifying and appointed surgeons shall be entitled to charge in respect of duties performed under section 8 of the Act shall be as follows:—

Fees payable by the Workman.

(i) For any certificate given under Regulation 3—

(a) In case where the medical examination of the workman is made by the surgeon in the performance of his duties under the Factory and Workshop Act, 1901, a fee of 1s.;

(b) In all other cases a fee of 5s., and where the workman is unable to present himself for examination at the residence of, or other nearer place fixed by, the certifying surgeon, for every mile or portion thereof which the certifying surgeon is required to travel therefrom for the purpose of examining the workman, an additional fee of 1s.

(ii) For any certificate of suspension or refusal to suspend, under Regulation 4, when the medical examination of the workman is made pursuant to any special rules or regulations under the Factory and Workshop Act, 1901, a fee of 1s.

(iii) For a copy of any certificate obtained under Regulation 6, a fee of 1s.

Fees payable by the Employer.

(iv) For any certificate of suspension or refusal to suspend, obtained by the employer under Regulation 4, a fee of 1s.

(v) When the employer applies under Regulation 5 for a certificate that the disease contracted is not due to the nature of the employment, in respect of every such application (to include the certificate, if given), a fee of 2s. 6d.

(vi) For a copy of any certificate obtained under Regulation 6, a fee of 1s.

References to Medical Referees.

8. Where an employer or workman is aggrieved by the action of a certifying or appointed surgeon in giving or refusing to give

a certificate of disablement or in suspending or refusing to suspend a workman, he may—

- (a) If he is an employer, within seven days of the receipt of the notice of disablement or suspension required to be given under the Act, or, in case of disablement, if the notice is not accompanied by the certificate of the surgeon, or a copy thereof, and the employer forthwith requires the workman to furnish him with a copy, within seven days of the receipt of such copy ; or
 - (b) If he is a workman, within seven days of the date on which the surgeon has refused to give him a certificate of disablement or suspension, apply to the registrar of the county court for the district in which the workman was employed at the time of his examination by the surgeon, for the matter to be referred to a medical referee ; provided that it shall be within the discretion of the registrar, on good cause shown, to extend in any case by not more than seven days the period within which an application is required to be made.
- 9.—(a) Any application under the foregoing regulation shall be made in writing, and shall state the grounds on which the reference is asked for, in accordance with the form prescribed in the schedule to these regulations, or as near thereto as may be.
- (b) The application shall be accompanied by the certificate or a copy of the certificate obtained from the surgeon by whose action the applicant is aggrieved, and by any available report or reports of any medical practitioner by whom the workman has been examined ; and if the applicant is an employer, by the notice of disablement or suspension served on him by the workman, and by an undertaking to pay any reasonable travelling expenses incurred by the workman in attending for examination by the medical referee.
 - (c) The applicant shall also file with the registrar such copies of the application and other documents as aforesaid as may be necessary for the use of the medical referee and of the employer or workman, as the case may be, hereinafter referred to as the respondent, who together with the applicant is directly interested in the application.
 - (d) In the event of any dispute as to the amount of the travelling expenses payable to the workman by the employer, the matter may be referred to the registrar, whose decision shall be final.

10. It shall be the duty of the registrar on receiving an application, to satisfy himself that it is duly made in accordance with the foregoing regulations, and if it is not, to return it for amendment. If, and when, the application is in accordance with the regulations, he shall refer the matter forthwith to a medical referee, and shall forward to such medical referee by registered post one of the copies of the application and the other document filed therewith, with an order of reference according to the form prescribed in the schedule.

11. The registrar shall also make an order directing the workman to submit himself for examination by the medical referee. Before making such order, the registrar shall inquire whether the workman is in a fit condition to travel for the purpose of examination, and if satisfied that he is in a fit condition shall by the order direct him

to attend at such time and place as the referee may fix, and if satisfied that he is not in a fit condition to travel, shall so state in the order of reference; and it shall be the duty of the workman, on being served with the order, to submit himself for examination accordingly.

12. The registrar shall deliver or send by registered post to both parties a copy of the order of reference, and shall also send to the respondent copies of the other documents forwarded to the medical referee, and shall send to the workman a copy of the order directing him to submit himself for examination.

13. In the case of a reference under these regulations, the medical referee shall be one of those appointed by the Secretary of State for the county court circuit which includes the district in which the case arises, and if the circuit has been subdivided and medical referees have been appointed for the subdivisions, shall be one appointed for the subdivision comprising the aforesaid district. Provided that if any medical referee is or has been specially appointed by the Secretary of State, either for the circuit or otherwise, for the purpose of deciding on any specified case or class of cases in which a reference may be made under these regulations, the reference in any such case shall be made to the medical referee so appointed. Provided also that if the surgeon by whose action the applicant is aggrieved, has been appointed a medical referee, the reference shall not be made to him, but to such other medical referee as may be authorised to act.

14. The medical referee shall, on receipt of an order of reference duly signed by the registrar of a county court, together with copies of the documents required to be sent therewith, fix a time and a place for a personal examination of the workman, and shall send notice to the employer and workman accordingly. It shall be the duty of the workman, and, if the employer is the applicant, of the employer or a person duly authorised by him, to attend at the time and place fixed by the medical referee, and in the event of failure on the part of the workman or employer or both to appear as required by this regulation, the medical referee shall decide on the matter referred to him forthwith upon such information as shall be available and with or without a personal examination. Provided that where the absence of the employer or his representative or of the workman is shown to the satisfaction of the medical referee to be unavoidable, or where the medical referee considers it necessary to apply for expert assistance as hereinafter provided, it shall be open to him to adjourn the inquiry on the reference and to resume it at such time and place as he may fix, after giving due notice to all parties concerned.

15. Except as otherwise provided by Regulation 14, the medical Referee shall, before deciding on the matter referred to him, make a personal examination of the workman, and shall consider any statement made or submitted by either party.

16. The medical referee shall in the form prescribed in the schedule to these regulations (subject to such additions and modifications as the circumstances of the case may require), notify in writing his decision to the registrar of the county court, to the applicant and to the respondent.

17. The medical referee shall send to the Home Office at the end of each quarter a statement accompanied by any vouchers necessary, in the form prescribed in the schedule to these regulations, of the fees due to him for the quarter under these regulations.

18. The following fees and allowances are authorised to be paid to medical referees under these regulations:—

- (i.) For deciding the matter referred to him in any reference and for all duties performed in connection therewith, 2 guineas.
- (ii.) Where in order to examine the workman the medical referee is compelled to travel to a place distant more than two miles from his residence or such other residence or such other centre as may be prescribed by the Secretary of State, in addition to the above fee, 5s. for each mile beyond two and up to ten miles distant from such residence or centre, and thereafter 1s. for each mile distant therefrom.
- (iii.) In cases involving special difficulty the medical referee may apply for special expert assistance, which may be granted by the Secretary of State if he thinks fit, on such terms as to remuneration or otherwise as he may with the sanction of the Treasury determine.

19. In case where a claim is made under Regulation 18 (ii.) in respect of any examination of a workman, the medical referee, in submitting his quarterly statement under Regulation 17, shall certify the distance of the place where the examination was made from his residence or other prescribed centre.

With regard to the prescribed forms of notices and certificates, supplies are sent on application. It is important that they should be used, as otherwise great trouble is caused in correcting the irregular certificates, and it is quite possible that irregularly worded notices might be ignored and so cause delay and confusion.

The regulations themselves seem to be fairly straightforward, and so far as my experience goes, do not in practice cause any confusion. I have, however, an important memorandum from the Home Office drawing attention to one special point, viz.,

“ Appeals in cases of industrial disease under section 8, from the decision of the certifying surgeon in which the medical referee has supposed that the question for his decision was whether or not the workman was suffering from the disease at the time of the appeal. This is a misapprehension. The point which the Referee is required by the Act to settle is *whether the certifying surgeon was right or not in giving or refusing the certificate*, or in other words, *whether or not the workman was suffering from the disease at the time when the certificate was given or refused*.

Further, the Act provides that the decision of the medical referee shall be final. The terms of the decision must therefore be conclusive . . . he must either allow or dismiss the appeal giving his decision on the form provided for the purpose . . . the referee is at liberty . . . to add an explanatory note, so long as the note is not inconsistent with his decision . . . as it is of importance . . . that claims should be settled as speedily as possible the Secretary of State desires that referees will deal promptly with cases referred to them.

Sec. 10 runs—

“ 10.—(1) *The Secretary of State may appoint such legally*

qualified medical practitioners to be medical referees for the purposes of this Act as he may, with the sanction of the Treasury, determine, and the remuneration of, and other expenses incurred by, medical referees under this Act shall, subject to regulations made by the Treasury, be paid out of moneys provided by Parliament.

“Where a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or workman or by any insurers interested, he shall not act as medical referee in that case.”

This is the only other section of the Act itself dealing directly with the medical profession, but there is a good deal of material in it and in the two schedules to the Act requiring comment from the point of view of the medical practitioner who acts either as referee or as an examiner of the workmen either on behalf of the workman or of the employer.

FIRST SCHEDULE.

The first schedule commences with three clauses dealing with the amount of compensation to be paid, these are of no medical interest except for one or two phrases used in them—

“Total or partial incapacity for work,” is one such phrase, for it is chiefly by medical evidence that such “incapacity” has to be proved.

My experience as a referee has proved to me that the predominating factor in deciding such a question is whether pain is or is not caused by using the damaged limb or muscles. I have elsewhere (Taylor, Vol. I.) discussed this point. Here I can only say that pain on use must not be taken to prove that the limb or muscle is not better for the use.

Another phrase that has given rise to much discussion and dispute, occurs in the third section, is, “average weekly amount which he is earning or is *able to earn*,” the words in italics being the crux of the problem, *i.e.*, whether “able” refers to his physical capacity for work or to his opportunities to get suitable employment. Some decisions would seem to refer to the former, others to the latter, meaning; but obviously, so far as medical evidence is concerned, capacity for work is alone to be considered.

(4) of Schedule I. Where a workman has given notice of an accident, he shall, if so required by the employer, submit himself for examination by a duly qualified medical practitioner provided and paid by the employer, and, if he refuses to submit himself to such examination, or in any way obstructs the same, his right to compensation, and to take or prosecute any proceeding under this Act in relation to compensation, shall be suspended until such examination has taken place.

(14) Any workman receiving weekly payments under this Act

shall, if so required by the employer, from time to time submit himself for examination by a duly qualified medical practitioner provided and paid by the employer. If the workman refuses to submit himself to such examination, or in any way obstructs the same, his right to such weekly payments shall be suspended until such examination has taken place.

(15) A workman shall not be required to submit himself for examination by a medical practitioner under paragraph (4) or paragraph (14) of this schedule otherwise than in accordance with regulations made by the Secretary of State, or at more frequent intervals than may be prescribed by those regulations.

Where a workman has so submitted himself for examination by a medical practitioner, or has been examined by a medical practitioner selected by himself, and the employer or the workman, as the case may be, has within six days after such examination furnished the other with a copy of the report of that practitioner as to the workman's condition, then, in the event of no agreement being come to between the employer and the workman as to the workman's condition or fitness for employment, the registrar of a county court, on application being made to the court by both parties, may, on payment by the applicants of such fee not exceeding one pound as may be prescribed, refer the matter to a medical referee.

The medical referee to whom the matter is so referred shall in accordance with regulations made by the Secretary of State, give a certificate as to the condition of the workman and his fitness for employment, specifying, where necessary, the kind of employment for which he is fit, and that certificate shall be conclusive evidence as to the matters so certified.

Where no agreement can be come to between the employer and the workman as to whether or to what extent the incapacity of the workman is due to the accident, the provisions of this paragraph shall, subject to any regulations made by the Secretary of State, apply as if the question were a question as to the condition of the workman.

If a workman, on being required to do so, refuses to submit himself for examination by a medical referee to whom the matter has been so referred as aforesaid, or in any way obstructs the same, his right to compensation and to take or prosecute any proceeding under this Act in relation to compensation, or, in the case of a workman in receipt of weekly payment, his right to that weekly payment, shall be suspended until such examination has taken place.

Feeling between the "medical attendant" (of the workman) and the "medical inspector" (for the employer), under (4) or (14) or (15), has at times risen so high that an attempt has been made by the Brit. Med. Assoc. to lay down rules to guide medical men in such examinations. These rules as they were sent down to the divisions of the associations are utterly unworkable and must be revised; so far as what may be termed the ethics of the situation they may be all right, but they do not take into consideration the very essence of the problem, viz., to ascertain whether the case is one of malingering or not, and there can be no doubt of the fact that a very large amount of malingering and gross exaggeration of injuries and their after effects has sprung up round the Act, if not even the direct result of the Act, and too

often, I fear, the medical attendant is a conscious and sympathetic or unconscious abettor of the exaggeration, though I cannot go so far as to say, of downright malingering; this being so, it is imperative that the "medical inspector" should have a much freer hand than the Brit. Med. Assoc. would allow him, especially in the way of surprise visits, of the removal of splints and dressings, &c., so as to be able to make a thoroughly satisfactory report on the exact condition of a wound or other damage. There is far too much suspicion of the motives of medical inspectors.

One principle has been laid down by the Courts in reference to the words "obstructs the examination," which is this: that an injured workman has no right to claim the attendance of his legal advisor, nor indeed of his medical attendant, at the examination by the "medical inspector," and refusal to be examined without the presence of either or both these gentlemen is held to be "unreasonable" and to warrant suspension of payments. This is a point entirely overlooked by the Brit. Med. Assoc.

As a matter of personal experience I find that references under (15) paragraph 2 of the first schedule have, since 1907, become much less frequent, and that I am called more frequently under Schedule 2 (5) to sit with the judge or assessor in Court to hear the evidence and then to offer my opinion upon the medical aspects of the case, an opinion which is most commonly accepted. I can only offer one word of advice to referees so sitting, which is, Do not attempt to step outside the boundaries of the medical evidence; leave legal points to the legal authority.

I now add the rules which have been framed by the Home Office for the guidance of medical referees under the first and second schedules. They require no comment.

STATUTORY RULES AND ORDERS, 1907.

No. 487.

REGULATIONS, DATED JUNE 24, 1907, MADE BY THE SECRETARY OF STATE AND THE TREASURY AS TO THE DUTIES AND REMUNERATION OF MEDICAL REFEREES IN ENGLAND AND WALES UNDER THE PROVISIONS OF THE FIRST AND SECOND SCHEDULES TO THE WORKMEN'S COMPENSATION ACT, 1906.

Part I.—Definitions and General Regulations.

1. In these regulations—

(i.) "Medical Referee" means a medical practitioner appointed by the Secretary of State to act as medical referee for the purposes of the Workmen's Compensation Act, 1906.

(ii.) "Reference" means—

(a) in regulations in Part II., the appointment of a medical referee by the registrar of a county court, to

give a certificate, in accordance with the provisions of paragraph (15) of the first schedule to the Workmen's Compensation Act, 1906, as to the condition of the workman and his fitness for employment or as to whether or to what extent the incapacity of the workman is due to the accident.

(b) in regulations in Part III., the appointment of a medical referee by the registrar of a county court to give a certificate, in accordance with the provisions of paragraph (18) of the first schedule to the Workmen's Compensation Act, 1906, as to whether the incapacity resulting from the injury is likely to be of a permanent nature.

(c) in regulations in Part V., the appointment of a medical referee by a committee, arbitrator or judge to report on any matter material to any question arising in an arbitration under the Workmen's Compensation Act, 1900.

- (iii.) "Committee" means a committee representative of an employer and his workmen, with power to settle matters under the Workmen's Compensation Act, 1906, in the case of the employer and workmen.
- (iv.) "Agreed Arbitrator" means a single arbitrator agreed on by the parties to settle any matter which under the Workmen's Compensation Act, 1906, is to be settled by arbitration.
- (v.) "Appointed Arbitrator" means a single arbitrator appointed by the judge.
- (vi.) "Judge" means County Court Judge.
- (vii.) The words "district in which the case arises" mean the county court district in which all the parties concerned reside, or, if they reside in different districts, the district prescribed by rules of court, subject to any transfer made under those rules.

2. In the case of any reference under these regulations, the medical referee, in the absence of special circumstances, shall be one of those appointed by the Secretary of State for the county court circuit which includes the district in which the case arises, and shall, if the circuit has been sub-divided, and medical referees have been appointed for the sub-divisions, be one appointed for the sub-division which comprises the aforesaid district. Provided that, where there has been a previous reference in any case, any subsequent reference in the same case shall, if possible, be made to the same referee and be accompanied by the previous report or certificate, or copy thereof, of the medical referee.

3. The medical referee shall not accept any reference under these regulations unless signed or countersigned by the registrar of a county court and sealed with the seal of the county court.

4. The medical referee shall send to the Home Office at the end of each quarter statements, in the forms prescribed in the schedule to these regulations, of the fees due to him for the quarter under these regulations.

5. In cases where a claim is made under the regulations in respect of travelling expenses, the medical referee, in submitting his quarterly statements under Regulation 4, shall certify the distance of the place to which he was required to travel from his residence or other prescribed centre.

6. In cases involving special difficulty the medical referee may

apply to the Secretary of State for special expert assistance which may be granted by the Secretary of State if he thinks fit, on such terms as to remuneration or otherwise as he may with the sanction of the Treasury determine.

7. The registrar of every county court shall keep a record, in the form prescribed in the schedule, of all references made under these regulations, and of all cases in which a medical referee is summoned to sit as assessor, and shall send a copy thereof to the Secretary of State at the end of each quarter.

8. These regulations shall come into force on the 1st day of July, 1907, and shall apply to England and Wales.

Part II.—Regulations as to References under Schedule I., paragraph (15).

9. The medical referee shall, on receipt of a reference duly signed and sealed, fix a time and place for the examination of the workman, and shall send notice accordingly to both the parties signing the application on which reference is made.

10. Before giving the certificate required by the reference, the medical referee shall personally examine the workman and shall consider any statements that may be made or submitted by either party.

11. The certificate given by the medical referee shall be according to the form prescribed in the schedule to these regulations.

12. The medical referee shall forward his certificate to the registrar from whom he received the reference.

13. The following shall be the scale of fees to be paid to medical referees in respect of references under this part of the regulations:—

(i.) For a first reference (to include all the duties performed in connection therewith) 2 guineas.

(ii.) For a second or subsequent reference to the same medical referee in the same case 1 guinea.

(iii.) Where in order to examine the injured workman the medical referee is compelled to travel to a place distant more than two miles from his residence or such other centre as may be prescribed by the Secretary of State, in addition to the above fees—5s. for each mile beyond two, and up to ten, miles distant from such residence or centre, and thereafter 1s. for each mile distant therefrom.

Part III.—Regulations as to References under Schedule I., paragraph (18).

14. The medical referee shall, on receipt of a reference duly signed and sealed, fix a time and place for the examination of the workman, and shall send notice accordingly to the workman.

15. Before giving the certificate required by the reference the medical referee shall make a personal examination of the workman.

16. The certificate given by the medical referee shall be according to the form prescribed in the schedule to these regulations.

17. The medical referee shall forward his certificate to the registrar from whom he received the reference.

18. The fee to be paid to a medical referee in respect of a reference (to include all the duties performed in connection therewith) under this part of these regulations shall be one guinea.

Part IV.—Regulation as to Remuneration of Medical Referee for sitting as Assessor under Schedule II., paragraph (5).

19. Where a medical referee attends on the summons of the judge for the purpose of sitting with the judge as an assessor, as provided for in paragraph (5) of the second schedule to the Workmen's Compensation Act, 1906, he shall be entitled for such attendance (to include his services as assessor) to a fee of 3 guineas, and where in order so to attend on the judge, he is compelled to travel to a place distant more than two miles from his residence or such other centre as may be prescribed by the Secretary of State, he shall be entitled, in addition to the above fee, to 5s. for each mile beyond two, and up to ten, miles distant from such residence or centre, and thereafter to 1s. for each mile distant therefrom.

Part V.—Regulations as to References under Schedule II., paragraph (15).

Conditions of Reference.

20. Before making any reference, the committee, arbitrator, or judge shall be satisfied, after hearing all medical evidence tendered by either side, that such evidence is either conflicting or insufficient on some matter which seems material to a question arising in the arbitration, and that it is desirable to obtain a report from a medical referee on such matter.

Form and Mode of Reference.

21. Every reference shall be made in writing and shall state the matter on which the report of the medical referee is required, and the question arising in the arbitration to which such matter seems to be material. Such reference shall be in accordance with the form prescribed in the schedule to these regulations, or as near thereto as may be.

The reference shall be accompanied by a general statement of the medical evidence given on behalf of the parties; and if such evidence has been given before a committee or an agreed arbitrator, each medical witness shall sign the statement of his evidence, and may add any necessary explanation or correction.

22. On making the reference to the medical referee, the committee, arbitrator or judge shall make an order in the form prescribed in the schedule, directing the injured workman to submit himself for examination by the medical referee. Before making such order they shall inquire whether he is in a fit condition to travel for the purpose of examination, and if satisfied that he is in a fit condition, they shall by the same order direct him to attend at such time and place as the referee may fix.

It shall be the duty of the injured workman to obey any such order.

If the committee, arbitrator or judge is satisfied that the workman is not in a fit condition to travel, they shall so state in the reference.

23. The reference shall be signed, if made by a committee, by the chairman and secretary of the committee; if made by an agreed arbitrator, by the arbitrator; if made by a judge or an appointed arbitrator, by the judge or arbitrator, or by the registrar of the county court in which the arbitration is pending.

24. A committee or an agreed arbitrator, making a reference

shall, without naming a medical referee, address the reference in general terms to "one of the medical referees appointed by the Secretary of State for the purposes of the Workmen's Compensation Act, 1906," and shall forward it to the registrar of the county court of the district in which the case arises.

Duties of Registrar.

25. (1) In the case of a reference by a committee or agreed arbitrator, the registrar on receiving the reference—

- (a) Shall see that the reference is in accordance with these regulations, and if it is not, shall return it for amendment ;
- (b) Shall insert the name of the medical referee proper to be appointed ;
- (c) Shall, when the reference is in accordance with these regulations, countersign and seal it, and forward it forthwith to the medical referee.

(2) In the case of a reference by a judge or an appointed arbitrator, the registrar of the court in which the arbitration is pending shall sign (or countersign) and seal it, and forward it forthwith to the medical referee.

26. The registrar, on receiving a report from a medical referee under Regulation 28, shall forthwith file a copy at the court and transmit the report to the committee, arbitrator or judge by whom the reference was made.

If the committee, arbitrator, or judge shall direct that the parties be at liberty to inspect the report, the registrar shall on receiving notice of such direction permit such inspection to be made during office hours, and shall on the application and at the cost of any party furnish him with a copy of the report or allow him to take a copy thereof.

Report of Medical Referee.

27. The medical referee shall, on receipt of a reference duly signed and sealed, appoint a time and a place for the examination of the workman, and shall send him notice accordingly.

28. The medical referee shall give his report in writing and shall forward it to the registrar from whom he received the reference.

29. The committee, arbitrator or judge may, by request signed and forwarded in the same manner as the reference, remit the report to the medical referee for a further statement on any matter not covered by the original reference.

Fees.

30. The following shall be the scale of fees to be paid to the medical referees in respect of references under this part of the regulations :—

- (i.) For a first reference, to include examination of the injured workman and written report 2 guineas.
- (ii.) For a further statement under regulation 29 on any matter not covered by the original reference 1 guinea.

- (iii.) For a second or subsequent reference to the same referee in a further arbitration on the same case, to include examination if necessary, and written report. . . . 1 guinea.
- (iv.) Where in order to examine the injured workman the medical referee is compelled to travel to a place distant more than two miles from his residence or such other centre as may be prescribed by the Secretary of State, in addition to the above fees—5s. for each mile beyond two, and up to ten, miles distant from such residence or centre, and thereafter 1s. for each mile distant therefrom.

SCHEDULE II.

(5) A judge of county courts may, if he thinks fit, summon a medical referee to sit with him as an assessor.

(15) Any committee, arbitrator, or judge may, subject to regulations made by the Secretary of State and the Treasury, submit to a medical referee for report any matter which seems material to any question arising in the arbitration.

On the above, and as a final comment on the whole Act, I would here quote the final part of the memorandum to referees dated October 24th, 1910, from the Home Office; it runs—

“3. The Secretary of State wished to remind referees of the directions given in the letter of appointment on the subject of the professional attendance of referees on injured workmen. These directions are as follows :—

“Section 10 (1) of the Act provides that ‘where a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or workman, or by any insurers interested, he shall not act as medical referee in that case.’ If, therefore, you receive a reference in a case in which you have been privately employed, you should at once inform the Registrar and return the Reference. Such an occurrence, however, should in any circumstances be rare; for the conditions on which Referees have been appointed preclude them, generally speaking, from holding appointments which would require attendance on or examination of an injured workman, and their position as Referee makes it important that in their private practice they should as far as possible avoid cases which may afterwards come before them in their official capacity. It is particularly undesirable that they should act on behalf either of the employer or insurance company, or of the workman in cases in which weekly payments are actually being made; and, apart from an emergency or other quite exceptional circumstances, they should decline to act in such cases.

“The Secretary of State believes that in the great majority of cases, these directions are observed, and that medical referees are anxious to avoid giving any ground for suspicion of bias towards one party or another in matters under the Workmen's Compensation Act.

“Cases, however, have from time to time been brought to his

notice in which these directions have not been observed, and complaints have been made to him in the matter, and, in view of the importance for the successful administration of the Act, of the referees being recognised as absolutely impartial, the Secretary of State desires to impress on referees the necessity of their paying particular attention to these directions."

This official testimony to the impartiality of referees I believe to be absolutely justified, and it supports in the strongest possible way the suggestion that the Act requires to be amended in the following way, viz., for the above schedule 11 par. (5), Should be substituted—

"A judge of county courts [or an arbitrator] shall [not may] on the application of either party [not, if he thinks fit] summon a medical referee to sit with him as assessor."

The only other comment possible on the position is to raise the question whether it might not be advisable to make referees whole time officers at a fixed honorarium with fixed hours of attendance.

CHAPTER XI

ACTS RELATING TO OFFENCES AGAINST THE PERSON

I FEEL compelled to give a reference to these Acts firstly, because they are commonly dealt with in works on medical jurisprudence, and secondly, because medical evidence is of necessity so frequently called for to elucidate various points in connection with charges under them, otherwise the Acts would have no greater interest for medical practitioners than for other citizens.

"24 & 25 Vic. c. 100. *An Act to consolidate and amend the Statute Law of England and Ireland relating to offences against the Person.* Aug. 6, 1861," is the earliest one that need be mentioned.

The first ten sections deal with murder and manslaughter. It is of a little passing interest to note that murder is in effect defined in sec. 6, "*feloniously, wilfully, and of his malice aforethought, kill and murder,*" and manslaughter "*feloniously kill and slay.*"

ATTEMPTS TO MURDER.

Sec. 11. Whoever shall administer to or cause to be administered to or to be taken by any person any poison or other destructive thing, or shall by any means whatsoever wound or cause any bodily harm to any person . . .

Here we meet with the law's idea of a poison, and find wound and grievous bodily harm somewhat in opposition. For a full discussion of these topics I must again refer the reader to Taylor's Med. Juris.

Sec. 14. States that attempts to poison, shoot, drown, suffocate, or strangle, with intent to murder shall be offences whether any bodily injury be inflicted or not.

Sec. 16. Deals with letters threatening to murder.

"Sec. 20. *Whoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person either with or without any weapon or instrument . . .*"

Previous to this Act the absence of a weapon was a frequent stumbling-block in prosecutions. The section should make medical witnesses more careful in their evidence, because "a

weapon " may influence the punishment if it does not influence the category of the crime.

" *Sec. 22 deals with the administering of Chloroform, Laudanum, or other stupefying or overpowering Drug, Drug Matter or Thing . . . with intent . . . to commit an indictable offence . . .*" Medical evidence is here very much to the fore.

Sec. 27 deals with the abandonment or exposure of a child under two years of age.

Sec. 29 deals with vitriol throwing with the following words : "*cast or throw upon or otherwise apply to any person any corrosive fluid or any destructive or explosive substance with intent . . . to burn, maim, disfigure, or disable . . . or do grievous bodily harm . . .*"

Pepper and such-like irritants to the eyes could, I suppose, be brought under the last words.

Secs. 36—47 deal with assaults but do not define the term, though it is common knowledge that very slight violence may be a " technical " assault.

Sec. 48. Whoever shall be convicted of the crime of rape shall be guilty of a felony.

Sec. 50 seems to define rape " Whoever shall unlawfully and carnally know and abuse;" but *vide* below, sec. 63.

Sec. 52 deals with indecent assaults, to which offence attempts at rape are frequently reduced.

Secs. 53, 54, 55 deal with abductions of heiresses of any age and of girls under sixteen or twenty-one.

Sec. 56. Child-stealing.

Sec. 57. Bigamy.

ATTEMPTS TO PROCURE ABORTION.

As this crime is essentially medical, I quote the two sections dealing with it in full.

" *Sec. 58. Every Woman, being with Child, who, with Intent to procure her own Miscarriage, shall unlawfully administer to herself any Poison or other noxious Thing, or shall unlawfully use any Instrument or other Means whatsoever with the like Intent, and whosoever, with Intent to procure the Miscarriage of any Woman, whether she be or be not with child, shall unlawfully administer to her or cause to be taken by her any Poison or other noxious Thing, or shall unlawfully use any Instrument or other Means whatsoever with the like Intent, shall be guilty of Felony, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Three Years,—or to be imprisoned for any Term not exceeding Two*

Years, with or without Hard Labour, and with or without Solitary Confinement.

" Sec. 59. Whosoever shall unlawfully supply or procure any Poison or other noxious Thing, or any Instrument or Thing whatsoever, knowing that the same is intended to be unlawfully used or employed with Intent to procure the Miscarriage of any woman, whether she be or be not with Child, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for the Term of Three Years, or to be imprisoned for any Term not exceeding Two years, with or without Hard Labour."

Discussion on it will be found in plenty in all works on medical jurisprudence.

CONCEALING THE BIRTH OF A CHILD.

" Sec. 60. If any Woman shall be delivered of a Child, every Person who shall, by any secret Disposition of the dead Body of the said Child, whether such Child died before, at, or after its Birth, endeavour to conceal the Birth thereof, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour : Provided that if any Person tried for the Murder of any Child shall be acquitted thereof, it shall be lawful for the Jury by whose Verdict such Person shall be acquitted to find, in case it shall so appear in Evidence, that the Child had recently been born, and that such Person did, by some secret Disposition of the dead Body of such Child, endeavour to conceal the Birth thereof, and thereupon the Court may pass such Sentence as if such Person had been convicted upon an Indictment for the Concealment of the Birth."

UNNATURAL OFFENCES.

" Sec. 61. Whosoever shall be convicted of the abominable Crime of Buggery, committed either with Mankind or with any Animal, shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for Life or for any Term not less than Ten Years."

" Sec. 62. Whosoever shall attempt to commit the said abominable Crime, or shall be guilty of any Assault with Intent to commit the same, or of any indecent Assault upon any Male Person, shall be guilty of a Misdemeanor, and being convicted thereof shall be liable, at the Discretion of the Court, to be kept in Penal Servitude for any Term not exceeding Ten Years and not less than Three Years, or to be imprisoned for any Term not exceeding Two Years, with or without Hard Labour."

" Sec. 63. Whenever, upon the Trial for any Offence punishable

under this Act, it may be necessary to prove carnal Knowledge, it shall not be necessary to prove the actual Emission of Seed in order to constitute a carnal Knowledge, but the carnal Knowledge shall be deemed complete upon Proof of Penetration only."

For a discussion upon the bearing of these sections on medical evidence I must again refer to Taylor. Sec. 63 is perhaps the most important in this respect, as it makes medical evidence so difficult in consideration of varieties in shape and structure of the hymen.

The remainder of the Act is purely legal in its bearing.

"48 & 49 Vic. c. 69. *An Act to make further provision for the Protection of Women and Girls, the suppression of Brothels, and other purposes.* Aug. 14, 1885," known as the Criminal Law Amendment Act, is the only other Act I propose to mention in this connection.

Sec. 2 deals with procuration of girls under twenty-one.

Sec. 3 deals with the same (only no age mentioned) by (1) threats, intimidation, or (2) false pretences, and (3) "*any person who applies, administers to or causes to be taken by any woman or girl any drug, matter or thing with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connection . . . shall be guilty . . .*"

"Sec. 4. *Any person who unlawfully and carnally knows any girl under the age of thirteen shall be guilty of felony.*" The attempt even, is a misdemeanour.

An offender whose age is sixteen or under may be whipped.

The same section, by its last paragraph, definitely says—

"*A man who induces a married woman to permit him to have connection . . . by personating her husband . . . shall be guilty of rape.*"

Sec. 5.—(1) Rape on a girl between thirteen and sixteen or attempts at the same.

(2) Rape or attempted rape on a female idiot or imbecile are misdemeanours, but (1) can be defended by showing that the man had reasonable cause to believe the girl was above sixteen.

Sec. 7. Abduction of a girl under eighteen with intent to have carnal knowledge made an offence, but reasonable cause to believe she was above eighteen may be made a defence.

Sec. 11. Makes indecency between males an offence.

This Act is chiefly of interest by the alterations in the protected age.

[In 1912 there seems to be a good prospect of these Acts being materially strengthened in relation to procuration as "The White Slave Traffic" discussion has roused public interest.]

CHAPTER XII

ACTS RELATING TO WILLS

THERE are two reasons why these have some special interest for medical men—one that they are very likely to be consulted about the making of a will when a patient is *in extremis*, whether from illness or from a more sudden accident, and a second reason is that owing to the very intimate and confidential relations which may hold between a patient and his medical attendant, it not infrequently happens that a patient wishes to make his doctor a legatee, a witness, or an executor, and therefore the medical man should know what he is about in accepting any of these offices.

Legislation regarding wills and the disposition of property after the death of the owner goes back a long way in the history of our country, as may be seen in the first two sections of the Act below, where the following are more or less repealed:—

32 Henry VIII. c. 1.
34 & 35 Henry VIII. c. 5.
10 Car. I, s. 2. c. 2.
12 Car. II. c. 24.
14 & 15 Car. II. (1).
4 & 5 Anne, c. 16.

6 Anne, c. 10.
14 Geo. II. c. 20.
25 Geo. II. c. 6.
25 Geo. II. c. 11.
55 Geo. III. c. 192.

These are only of historical and referential interest, and the present position is governed by 7 Will. IV., c. 20 and by “1 Vic. c. 26. *An Act for the Amendment of the Laws with respect to Wills. July 3, 1837,*” from which we must quote a few sections.

“Sec. VII. . . . no Will made by any Person under the Age of Twenty-one years shall be valid.

“Sec. IX. . . . no Will shall be valid unless it shall be in writing and executed in manner hereinafter mentioned (that is to say) it shall be signed at the Foot or End thereof by the Testator or by some other Person in his Presence and by his Direction; and such Signature shall be made or acknowledged by the Testator in the Presence of Two or more Witnesses present at the same Time and such Witnesses shall attest and shall subscribe the Will in the Presence of the Testator . . .

“Sec. XIII. And be it further enacted, That every Will executed in manner herein-before required shall be valid without any other Publication thereof.

" Sec. XIV. And be it further enacted, That if any Person who shall attest the Execution of a Will shall at the Time of the Execution thereof or at any Time afterwards be incompetent to be admitted a Witness to prove the Execution thereof, such Will shall not on that Account be invalid.

" Sec. XV. And be it further enacted, That if any Person shall attest the Execution of any Will to whom or to whose Wife or Husband any beneficial Devise, Legacy, Estate, Interest, Gift, or Appointment, of or affecting any Real or Personal Estate (other than and except Charges and Directions for the Payment of any Debt or Debts), shall be thereby given or made, such Devise, Legacy, Estate, Interest, Gift, or Appointment shall, so far only as concerns such Person attesting the Execution of such Will, or the Wife or Husband of such Person, or any Person claiming under such Person or Wife or Husband, be utterly null and void, and such Person so attesting shall be admitted as a Witness to prove the Execution of such Will, or to prove the Validity or Invalidity thereof, notwithstanding such Devise, Legacy, Estate, Interest, Gift, or Appointment mentioned in such Will.

" Sec. XVI. And be it further enacted, That in case by any Will any Real or Personal Estate shall be charged with any Debt or Debts, and any Creditor, or the Wife or Husband of any Creditor, whose Debt is so charged, shall attest the Execution of such Will, such Creditor notwithstanding such Charge shall be admitted a Witness to prove the Execution of such Will, or to prove the Validity or Invalidity thereof.

" Sec. XVII. And be it further enacted, That no Person shall, on account of his being an Executor of a Will, be incompetent to be admitted a Witness to prove the Execution of such Will, or a Witness to prove the Validity or Invalidity thereof.

" Sec. XVIII. And be it further enacted, That every Will made by a Man or Woman shall be revoked by his or her Marriage (except a Will made in exercise of a Power of Appointment, when the Real or Personal Estate thereby appointed would not in default of such Appointment pass to his or her Heir, Customary Heir, Executor, or Administrator, or the Person entitled as his or her next of Kin, under the Statute of Distributions).

" Sec. XIX. And be it further enacted, That no Will shall be revoked by any Presumption of an Intention on the Ground of an Alteration in Circumstances.

" Sec. XX. And be it further enacted, That no Will or Codicil, or any Part thereof, shall be revoked otherwise than as aforesaid, or by another Will or Codicil executed in manner herein-before required, or by some Writing declaring an Intention to revoke the same, and

executed in the Manner in which a Will is herein-before required to be executed, or by the burning, tearing, or otherwise destroying the same by the Testator, or by some Person in his Presence and by his Direction, with the Intention of revoking the same.

“Sec. XXI. And be it further enacted, That no Obliteration, Interlineation, or other Alteration made in any Will after the Execution thereof shall be valid or have any Effect, except so far as the Words or Effect of the Will before such Alteration shall not be apparent, unless such Alteration shall be executed in like Manner as herein-before is required for the Execution of the Will ; but the Will, with such Alteration as Part thereof, shall be deemed to be duly executed if the Signature of the Testator and the Subscription of the Witnesses be made in the Margin or on some other Part of the Will opposite or near to such Alteration, or at the Foot or End of or opposite to a Memorandum referring to such Alteration, and written at the End or some other Part of the Will.”

The reader may also be referred to 15 & 16 Vic. c. 24, which is an Act explanatory of the above.

For the following legal hints on the above I am indebted to Mr. Chas. W. Hewgill:—

“(1) Every person of full age (of twenty-one years) and sound mind can make a will disposing of his property whether land or personalty, and this includes married women in regard to their separate property.

“(2) Care should be taken that the testator at the time of making a will is in possession of a sufficiently clear intellect as to fully understand what he is doing.

“(3) Where there can arise any position of undue influence legal advice should be sought, and cases where legacies are left to those who have had confidential relations with the testator, such as a medical adviser, present points of difficulty in this respect.

“(4) Wills take effect as if executed immediately before the death of the testator so that they cover all property he may be possessed of when the will is made as well as any he may acquire between the time of making the will and death.

“(5) Marriage operates to revoke a will made before the marriage.

“(6) Legal expressions are not necessary, and indeed, should be avoided. Any plain words whereby the intentions of the testator are made clear are sufficient. No abbreviations should be used.

“(7) The appointment of one or more executors should not be omitted.

“(8) A simple form of will may be used as follows :—

‘ This is the last Will and Testament of me John Smith of Maidstone, in the County of Kent, Draper. I give devise and bequeath all my real and personal estate unto of absolutely.

And I appoint of executor of this my Will and I revoke all previous Wills and declare this to be my last.

In witness whereof I hereunto set my hand this day of one thousand nine hundred and .

‘ JOHN SMITH.

(A)

‘ Signed by the said John Smith in the presence of us both being present at the same time who in his presence and in the presence of each other, hereunto subscribe our names as witnesses,

‘ A. B.,

‘ Maidstone, Butcher,

‘ C. W.,

‘ Dover, Grocer.’

“ The will must be signed by the testator at the foot or end thereof in the presence of two witnesses. The two witnesses must both be present together at the signing, must see the testator sign and must sign their names as witnesses in his presence and in the presence of each other and write their addresses and occupation after their signatures at the foot of the attestation clause (A.).

“ The above form of attestation (A) should be used, but if the testator, from infirmity or otherwise, cannot write, the will should be read over to him in the presence of the witnesses, and his name should be written for him and he should make a cross below thus—

‘ John Smith

X (his mark) ’

and the following attestation should be used in place of (A) :—

‘ Signed by the said John Smith as and for his last Will in the presence of us both being present at the same time, who, in his presence and in the presence of each other hereunto subscribe our names as witnesses, the same having been first audibly read over to him when he appeared to understand the same and made his mark thereto in our presence as aforesaid.’

“ (9) If there are any alterations or interlineations the testator and the witnesses should put their initials opposite or close to the alteration or interlineation.

“(10) The above directions as to signing and witnessing must be strictly observed. A witness need not be of full age but should be reasonably competent to understand what is being done. Witnesses may be male or female, married or single.

“(11) A legacy given to a witness or the husband or wife of a witness is void though the attestation of a beneficiary would suffice to render the will valid in other respects. Executors may be witnesses, save that they would lose any legacies given to them if they are witnesses. They can be legatees as well as executors if not witnesses.”

I must add a few sentences emphasising the medical points.

Paragraph 2, above. It must be remembered that lunacy in general need not necessarily invalidate a will so long as the testator is clear upon the nature and the disposition of his property, and a medical man must remember that it is upon this point that his evidence will be of the very greatest weight, especially if he is present (as he very likely may be) when the will is actually signed. It is for him to bear in mind the curious mental condition which not infrequently comes on for a variable number of minutes or hours preceding death.

Paragraph 3, *re* undue influence. Gratitude is still, I am happy to say, not yet extinct amongst human beings, and it is especially necessary to warn medical men, and to emphasise the warning, as to their conduct and action when it becomes known that a patient wishes to show his gratitude by leaving his doctor a legacy.

Let such a medical practitioner remember that neither he nor his wife must be a witness to the will (*vide* sec. XV.), such a mistake absolutely and at once and for ever is fatal to his getting such legacy.

But apart from such a very positive and clearly defined position there are two possibilities worth a word of advice: (1) The doctor may be unaware of the fact that he has been left a legacy. Here of course there is nothing to be done, and things must follow their legal course. (2) The patient may inform his doctor that he would like to leave him a legacy.

Here the doctor may be in a very unpleasant position, and his conduct must be very open and above-board. Of course, if the doctor and patient have no other intercourse than merely professional visits, nothing need be said more by the doctor than “Thank you; but don’t ask me to witness the will.” But it is in just these cases that the doctor is something more than a mere professional adviser; he is likely to be also a confidential friend not only of the patient but of the relatives, and here it seems to

me there is only one honourable course for a medical man to pursue, viz., to insist that the patient's lawyer or some of his relatives are informed of the intention of the patient, so that it cannot possibly be said that there was any concealment about the matter. As to what will then follow I can say nothing; any of them may feel aggrieved and show it, and threaten to prevent the legacy being made, or, on the other hand, they may be quite as willing and anxious as the testator himself that the doctor should benefit under the will. Either alternative leaves very little to be said or done by an honourable and conscientious medical man.

The one position in which a doctor must *not* find himself is that of secretly aiding the testator by finding witnesses for the will and getting the business done behind the backs of those who might naturally anticipate that they, through relationship, would be the only legatees. Such a position is not only degrading in itself to the individual, but it is a betrayal of trust and drags the name of the whole profession through the mire, and all this quite apart from the fact that such a proceeding is almost certain to defeat its own ends by leading to litigation in which the medical men will be roughly handled and lose his legacy.

CHAPTER XIII

THE NATIONAL INSURANCE ACT

ALTHOUGH this Act has disturbed and shaken the medical profession through and through, there are comparatively few sections which *directly* affect us, but those few are of the utmost and far-reaching consequence. I do not propose to discuss at any length any of the sections—the whole Act is too controversial for such discussion to be serviceable, or even possible—but I add a few words here and there explanatory of the effect of the sections on us and our work. I am writing also in ignorance of the regulations to be made by the Commissioners, upon the nature of which everything hinges, but they may appear before these lines go to press.

“ 1 & 2 Geo. 5, c. 55. *An Act to provide for Insurance against Loss of Health and for the Prevention and Cure of Sickness and for Insurance against Unemployment and for purposes incidental thereto.*” December 16th, 1911.

I insert the first section to show how wide-reaching is the net of insurance under the Act.

“ Sec. I.—(1) *Subject to the provisions of this Act, all persons of the age of sixteen and upwards who are employed within the meaning of this Part of this Act shall be, and any such persons who are not so employed but who possess the qualifications herein-after mentioned may be insured in manner provided in this Part of this Act, and all persons so insured (in this Act called ‘insured persons’)* shall be entitled in the manner and subject to the conditions provided in this Act to the benefits in respect of health insurance and prevention of sickness conferred by this Part of this Act.

“ (2) *The persons employed within the meaning of this Part of this Act (in this Act referred to as ‘employed contributors’)* shall include all persons of either sex, whether British subjects or not, who are engaged in any of the employments specified in Part I. of the First Schedule to this Act, not being employments specified in Part II. of that schedule :

“ *Provided that the Insurance Commissioners herein-after constituted may, with the approval of the Treasury, by a special order made in manner herein-after provided, provide for including amongst the persons employed within the meaning of this Part of*

this Act any persons engaged in any of the excepted employments specified in Part II. of the said schedule either unconditionally or subject to such conditions as may be specified in the order.

" (3) The persons not employed within the meaning of this Part of this Act who are entitled to be insured persons include all persons who either—

" (a) are engaged in some regular occupation and are wholly or mainly dependent for their livelihood on the earnings derived by them from that occupation ; or

" (b) have been insured persons for a period of five years or upwards ;

and the persons possessing such qualifications who become or continue to be insured persons are in this Act referred to as voluntary contributors : Provided always that no person whose total income from all sources exceeds one hundred and sixty pounds a year shall be entitled to be a voluntary contributor unless he has been insured under this Part of this Act for a period of five years or upwards.

" (4) Except as herein-after provided, nothing in this section shall require or authorise a person of the age of sixty-five or upwards not previously insured under this Part of this Act to become so insured."

Apart altogether from controversy, the effects upon medical practice of this clause are as follows :—

1. That as all insured persons are entitled to medical benefits (*vide p. below*) no matter what may be the average or general state of their health, it is certain that the amount of medical attendance required " under the Act " must be greater (how much greater it is impossible to estimate) than the amount at present required by clubs and trades unions, which represent at present, or under the old conditions, lives which are more or less picked. The inclusion of old people must have a similar effect.

2. That as persons who have been insured for five years can continue to be insured up to the age of sixty-five it is certain that many *can* continue to claim " medical benefits " under the Act whose incomes would not warrant a more or less charitable form of medical attendance. I avoid the very open question, How many *will* do so ?

Secs. 3 to 7 dealing with contributions, have no special medical interest, except in so far as medical men are employers of labour, but their troubles there are common to all employers.

BENEFITS.

" Sec. 8.—(1) Subject to the provisions of this Act the benefits conferred by this Part of this Act upon insured persons are—

" (a) Medical treatment and attendance, including the provision

of proper and sufficient medicines, and such medical and surgical appliances as may be prescribed by regulations to be made by the Insurance Commissioners (in this Act called ' medical benefit ') ;

" (b) Treatment in sanatoria or other institutions or otherwise when suffering from tuberculosis, or such other diseases as the Local Government Board with the approval of the Treasury may appoint (in this Act called ' sanatorium benefit ') ;

" (c) Periodical payments whilst rendered incapable of work by some specific disease or by bodily or mental disablement, of which notice has been given, commencing from the fourth day after being so rendered incapable of work, and continuing for a period not exceeding twenty-six weeks (in this Act called ' sickness benefit ') ;

" (d) In the case of the disease or disablement continuing after the determination of sickness benefit, periodical payments so long as so rendered incapable of work by the disease or disablement (in this Act called ' disablement benefit ') ;

" (e) Payment in the case of the confinement of the wife or, where the child is a posthumous child, of the widow of an insured person, or of any other woman who is an insured person, of a sum of thirty shillings (in this Act called ' maternity benefit ') :

" (f) In the case of persons entitled under this Part of this Act to any of the further benefits mentioned in Part II. of the Fourth Schedule to this Act (in this Act called ' additional benefits ') such of those benefits as they may be entitled to.

" (3) In the case of insured persons who have attained the age of seventy, the right to sickness benefit and disablement benefit shall cease.

" (5) Where an insured person, having been in receipt of sickness benefit, recovers from the disease or disablement in respect of which he receives such benefit, any subsequent disease or disablement, or a recurrence of the same disease or disablement, shall be deemed to be a continuation of the previous disease or disablement, unless in the meanwhile a period of at least twelve months has elapsed, and at least fifty weekly contributions have been paid by or in respect of him.

" (6) Where a woman confined of a child is herself an insured person, and is a married woman, or, if the child is a posthumous child, a widow, she shall be entitled to sickness benefit or disablement benefit (as the case may be) in respect of her confinement in addition

to the maternity benefit to which she or her husband may be entitled, but, save as aforesaid, a woman shall not be entitled to sickness benefit or disablement benefit for a period of four weeks after her confinement, unless suffering from disease or disablement not connected directly or indirectly with her confinement.

"Medical benefit shall not include any right to medical treatment or attendance in respect of a confinement."

I have inserted sec. 8 almost in its entirety in order to draw attention to a point which seems very much to have escaped notice, viz., the large number of certificates which will be demanded of medical men under the Act. I would ask how are these to be paid for, but I admit I am unable to answer the question.

In addition to this omission of any payment for certificates I venture to point out the following very serious considerations affecting medical men:—

(a) It is beyond possibility at present to estimate the amount of treatment and attendance, medicine and appliances, that may be needed; the age and the non-picked character of the lives of the insured must have some effect on the position. One might therefore urge, without being controversial, that whatever method or rate of remuneration for medical practitioners be adopted in the first year of the operation of the Act, provision should be made in the regulations for a rearrangement of terms when a reliable estimate of the probable work to be done can be made. From our point of view this is a strong argument against the *per capita* method of payment.

(b) Sanatorium treatment and benefit cannot be discussed till further details of its probable working are available.

(c), (d) and (f) will require an enormous number of certificates (above) and (5) also, and many under this subsection will require considerable care in filling up, and possibly be disputed when filled up. All this is additional work for the profession of a worrying nature.

(e) and (6). The effect of maternity benefits upon our maternity material for teaching students cannot yet be usefully discussed, we must "wait and see," but it is certain that (6) will again require many controversial certificates.

I insert as of some interest Schedule 4., Part II.—

Additional Benefits.

(1) Medical treatment and attendance for any persons dependent upon the labour of a member.

(2) The payment of the whole or any part of the cost of dental treatment.

(3) An increase of sickness benefit or disablement benefit in the

case either of all members of the society or of such of them as have any children or any specified number of children wholly or in part dependent upon them.

(4) Payment of sickness benefit from the first, second, or third day after the commencement of the disease or disablement.

(5) The payment of a disablement allowance to members though not totally incapable of work.

(6) An increase of maternity benefit.

(7) Allowances to a member during convalescence from some disease or disablement in respect of which sickness benefit or disablement benefit has been payable.

(8) The building or leasing of premises suitable for convalescent homes and the maintenance of such homes.

(9) The payment of pensions or superannuation allowances whether by way of addition to old age pensions under the Old Age Pensions Act, 1908, or otherwise.

(10) The payment, subject to the prescribed conditions of contributions to superannuation funds in which the members are interested.

(11) Payments to members who are in want or distress including the remission of arrears whenever such arrears may have become due.

(12) Payments for the personal use of a member who, by reason of being an inmate of a hospital or other institution, is not in receipt of sickness benefit or disablement benefit.

(13) Payments to members not allowed to attend work on account of infection.

(14) Repayment of the whole or any part of contributions thereafter payable under Part I. of this Act by members of the society or any class thereof.

Sec. 10 specifically safeguards medical, sanatorium, and maternity benefits from suspension for arrears of anything between thirteen and twenty-six weeks a year on an average.

The point is of no special medical interest, except as showing the importance of these benefits in the scheme of the Act.

Sec. 12 must be quoted on account of its importance to voluntary hospitals.

" Sec. 12.—(1) No payment shall be made on account of sickness, disablement or maternity benefit to or in respect of any person during any period when the person to or in respect of whom the benefit is payable is an inmate of any workhouse, hospital, asylum, convalescent home, or infirmary, supported by any public authority or out of any public funds or by a charity, or voluntary subscriptions, or of a sanatorium or similar institution approved under this Part of this Act.

" (2) During such period as aforesaid the sum which would otherwise have been payable on account of any such benefit to or in respect of such person—

" (a) shall be paid to or applied in whole or in part for the relief or maintenance of his dependants (if any) in such manner as the society or committee by which the benefit is

administered, after consultation whenever possible with such person, thinks fit ; or

“(b) *if such person, being a member of an approved society, is an inmate of a sanatorium or similar institution in which he is receiving treatment in accordance with the provisions of this Part of this Act, and has no dependants, shall be paid to the Insurance Committee towards the general purposes thereof ; or*

“(c) *if such person, being a member of an approved society, is an inmate of a hospital, asylum, convalescent home, or infirmary supported by a charity or by voluntary subscriptions and has no dependants, shall, if an agreement for the purpose has been made between the society or committee and the hospital, asylum, convalescent home, or infirmary, be paid, in whole or in part, according to such agreement, towards the maintenance of such person in the hospital, asylum, convalescent home, or infirmary :*

“ Provided that—

“(i.) *any part of such sum which is not so applied as aforesaid may, if the society or committee thinks fit, be applied in the provision of any surgical appliances required for the insured person or otherwise for his benefit ; and*

“(ii.) *if such an inmate as aforesaid is a married woman or widow, and the sums so payable or applicable as aforesaid include the sums which would have been payable both on account of sickness or disablement benefit and on account of maternity benefit, no part of the sum which would otherwise be payable on account of maternity benefit shall be paid or applied for the relief or maintenance of her dependants, but such sum may be paid to the hospital, asylum, convalescent home, or infirmary of which she is an inmate as aforesaid in like manner as if she had no dependants.”*

“Sec. 14.—(1) . . . *medical and sanatorium benefits shall in all cases be administered by and through the Insurance Committees . . .*”

The effect of this subsection was intended to be that the medical benefits, and the doctors providing them should be removed from the control of the various societies (*vide* sec. 15, below).

Of sec. 14 (2) referring to the application of the rules of existing societies to beneficiaries paragraph (c) must be quoted, as it has a direct medical bearing, the effect of which must be watched ; it runs—

" (e) no such rule shall prescribe any penalty, nor shall any insured person be subject to any penalty, whether by suspension of benefit or otherwise, on account of the refusal by any such person to submit to a surgical operation or vaccination, or inoculation of any kind, unless such refusal in the case of a surgical operation of a minor character is considered by the society, or on appeal the Insurance Commissioners, unreasonable ; "

Sec. 14.—(4) is also important to us, as it includes and is directed at venereal diseases which are by it included in medical treatment.

" (4) Where, under any such rule as aforesaid, payment of sickness or disablement benefit is suspended on the ground that the disease or disablement has been caused by the misconduct of the person claiming the benefit, such person shall not thereby become disentitled to medical benefit."

Sec. 15 must be quoted in full; it contains what is commonly known as the Addison Amendment about income limit.

" 15.—(1) Every Insurance Committee shall, for the purpose of administering medical benefit, make arrangements with duly qualified medical practitioners in accordance with regulations made by the Insurance Commissioners.

" (2) The regulations made by the Insurance Commissioners shall provide for the arrangements made being subject to the approval of the Insurance Commissioners and being such as to secure that insured persons shall, save as hereinafter provided, receive adequate medical attendance and treatment from the medical practitioners with whom arrangements are so made, and shall require the adoption by every Insurance Committee of such system as will secure—

" (a) the preparation and publication of lists of medical practitioners who have agreed to attend and treat insured persons whose medical benefit is administered by the committee ;

" (b) a right on the part of any duly qualified medical practitioner who is desirous of being included in any such list as aforesaid of being so included, but, where the Insurance Commissioners, after such inquiry as may be prescribed, are satisfied that his continuance in the list would be prejudicial to the efficiency of the medical service of the insured, they may remove his name from the list ;

" (c) a right on the part of any insured person of selecting, at such periods as may be prescribed, from the appropriate list the practitioner by whom he wishes to be attended and

treated, and, subject to the consent of the practitioner so selected, of being attended and treated by him ;

“ (d) the distribution amongst, and so far as practicable, under arrangements made by, the several practitioners whose names are on the lists, of the insured persons who after due notice have failed to make any selection, or who have been refused by the practitioner whom they have selected ;

“ (e) the provision of medical attendance and treatment on the same terms as to remuneration as those arranged with respect to insured persons, to members of any friendly society which, or a separate section of which, becomes an approved society who were such members at the date of the passing of this Act, and who are not entitled to medical benefit under this Part of this Act by reason either that they are of the age of sixty-five or upwards at the date of the commencement of this Act, or that being subject to permanent disablement at that date they are not qualified to become insured persons :

“ Provided that, if the Insurance Commissioners are satisfied after inquiry that the practitioners included in any list are not such as to secure an adequate medical service in any area, they may dispense with the necessity of the adoption of such system as aforesaid as respects that area, and authorise the Committee to make such other arrangements as the Commissioners may approve ; or the Commissioners may themselves make such arrangements as they think fit, or may suspend the right to medical benefit in respect of any insured persons in the area for such period as they think fit, and pay to each such person a sum equal to the estimated cost of his medical benefit during that period, and, where the Commissioners take any such action themselves, they shall retain and apply for the purpose such part of the sums payable to the Insurance Committee in respect of medical benefit as may be required.

“ (3) The regulations made by the Insurance Commissioners shall authorise the Insurance Committee by which medical benefit is administered to require any persons whose income exceeds a limit to be fixed by the Committee, and to allow any other persons, in lieu of receiving medical benefit under such arrangements as aforesaid, to make their own arrangements for receiving medical attendance and treatment (including medicines and appliances), and in such case the Committee shall, subject to the regulations, contribute from the funds out of which medical benefit is payable towards the cost of medical attendance and treatment (including medicines and appliances) for such persons sums not exceeding in the aggregate the

amounts which the Committee would otherwise have expended in providing benefit for them.

“(4) The regulations shall provide that, in the case of persons who are entitled to receive medical attendance and treatment under any system or through any institution existing at the time of the passing of this Act and approved by the Insurance Committee and the Insurance Commissioners, such medical attendance and treatment may be treated as, or as part of, their medical benefit under this Part of this Act, and may provide for the Committee contributing towards the expenses thereof the whole or any part of the sums which would be contributed in the case of persons who have made their own arrangements as aforesaid, so, however, that such regulations shall secure that no person be deprived of his right, if he so elects, of selecting the duly qualified medical practitioner by whom he wishes to be attended and treated, in accordance with the foregoing provisions of this section.

“(5) Every such Committee shall also make provision for the supply of proper and sufficient drugs and medicines and prescribed appliances to insured persons in accordance with regulations made by the Insurance Commissioners, which shall provide for the arrangements made being subject to the approval of the Insurance Commissioners and being such as to enable insured persons to obtain from any persons, firms, or bodies corporate with whom arrangements have been made such drugs, medicines, and appliances if ordered by the medical practitioner by whom they are attended, and shall require the adoption by every Insurance Committee of such a system as will secure—

“(a) The preparation and publication of lists of persons, firms, and bodies corporate who have agreed to supply drugs, medicines, and appliances to insured persons whose medical benefit is administered by the Committee, according to such scale of prices as may be fixed by the Committee ;

“(b) A right on the part of any person, firm, or body corporate desirous of being included in any such list as aforesaid of being so included, for the purpose of supplying such drugs, medicines, and appliances as such person, firm, or body corporate is entitled by law and authorised by the Committee to supply except in cases where the Insurance Commissioners after inquiry are satisfied that the inclusion or continuance of the person, firm, or body corporate in such list would be prejudicial to the efficiency of the service :

“ Provided that—

“(i.) If the Insurance Commissioners are satisfied that the scale

of prices fixed by the Committee is reasonable, but that the persons, firms, or bodies corporate included in any list are not such as to secure an adequate and convenient supply of drugs, medicines, and appliances in any area, they may dispense with the necessity of the adoption of such system as aforesaid as respects that area and authorise the Committee to make such other arrangements as the Commissioners may approve ;

“ (ii.) Except as may be provided by regulations made by the Insurance Commissioners, no arrangement shall be made by the Insurance Committee with a medical practitioner under which he is bound or agrees to supply drugs or medicine to any insured persons ;

“ (iii.) Subject to the regulations made by the last foregoing proviso the regulations shall prohibit arrangements for the dispensing of medicines being made with persons other than persons, firms, or bodies corporate entitled to carry on the business of a chemist and druggist under the provisions of the Pharmacy Act, 1868, as amended by the Poisons and Pharmacy Act, 1908, who undertake that all medicines supplied by them to insured persons shall be dispensed either by or under the direct supervision of a registered pharmacist or by a person who, for three years immediately prior to the passing of this Act, has acted as a dispenser to a duly qualified medical practitioner or a public institution ;

“ (iv.) Nothing in this Act shall interfere with the rights and privileges conferred by the Apothecaries Act, 1815, upon any person qualified under that Act to act as an assistant to any apothecary in compounding and dispensing medicines.

“ (6) There shall in each year be paid to the Insurance Committee for each county or county borough out of moneys credited to a society which has members resident in the county or county borough such sum in respect of the medical benefit of such members and the cost of administration thereof as may be agreed between the society and committee or, in default of agreement, may be determined by the Insurance Commissioners.

“ (7) If in any year the amount payable to an Insurance Committee in respect of all persons for the administration of whose medical benefit it is responsible is insufficient to meet the estimated expenditure thereon, the Committee may, through the Insurance Commissioners, transmit to the Treasury and to the council of the county or county borough an account showing the amount so payable and the

estimated expenditure, and the Treasury and the county council or the council of the county borough may, if they think fit and if satisfied that the amounts so payable and the proposed expenditure are reasonable and proper in the circumstances, sanction the expenditure.

"(8) The Treasury and the council of the county or county borough sanctioning any such expenditure as aforesaid shall thereupon each be liable to make good, in the case of the Treasury out of moneys provided by Parliament, and, in the case of the council of a county or county borough, out of the county fund or borough fund or borough rate, as the case may be, one half of any sums so sanctioned by them and expended by the Insurance Committee on medical benefit in the course of the year in excess of the amounts so payable to the Insurance Committee as aforesaid."

The points of interest here involved are : (1) Formation of panels of doctors ; (2) free choice of doctor ; (3) free choice of patient ; (4) control of medical men by lay bodies.

I do not propose to discuss these points ; we must again " wait and see."

SANATORIUM BENEFITS.

" Sec. 16.—(1) For the purpose of administering sanatorium benefit, Insurance Committees shall make arrangements, to the satisfaction of the Insurance Commissioners,—

"(a) with a view to providing treatment for insured persons suffering from tuberculosis or any other such disease as aforesaid in sanatoria and other institutions, with persons or local authorities (other than poor law authorities) having the management of sanatoria or other institutions approved by the Local Government Board, which treatment it shall be lawful for a local authority to provide as respects insured persons resident outside as well as respects those resident within their area ; and

"(b) with a view to providing treatment for such persons otherwise than in sanatoria or other institutions, with persons and local authorities (other than poor law authorities) undertaking such treatment in a manner approved by the Local Government Board, which treatment (including the appointment of officers for the purpose) it shall be lawful for a local authority, if so authorised by the Local Government Board, to undertake.

"(2) The sums available for defraying the expenses of sanatorium benefit in each year shall be —

"(a) one shilling and threepence in respect of each insured person

resident in the county or county borough, payable out of the funds out of which benefits are payable under this Part of this Act ;

“ (b) one penny in respect of each such person payable out of moneys provided by Parliament :

“ Provided that the Insurance Commissioners may retain the whole or any part of the sums so payable out of moneys provided by Parliament to be applied, in accordance with regulations made by the Commissioners, for the purposes of research.

“ (3) An insured person shall not be entitled to sanatorium benefit unless the Insurance Committee recommends the case for such benefit.

“ (4) An Insurance Committee may, out of the sums available for defraying the expenses of sanatorium treatment, defray in whole or in part the expenses of the conveyance of an insured person to or from any sanatorium or institution to which he may be sent for treatment therein, or may make advances for the purpose.

“ Sec. 17.—(1) The Insurance Committee for any county or county borough may, if it thinks fit, extend sanatorium benefit to the dependants of the insured persons resident in the county or any part of the county, or in the county borough, or any class of such dependants, and in such case the arrangements to be made by the committee shall include arrangements for the treatment of such dependants, and the sums available for sanatorium benefit shall be applicable to the purpose.

“ (2) If in any year the amount available for defraying the expenses of sanatorium benefit is insufficient to meet the estimated expenditure on sanatorium benefit for insured persons and such dependants, the Insurance Committee may, through the Insurance Commissioners, transmit to the Treasury and the council of the county or county borough an account showing the estimated expenditure for the purpose and the amount of the sums available for defraying the expenses of sanatorium benefit, and the Treasury and council may if they think fit sanction such expenditure.

“ (3) The Treasury and the council of the county or county borough sanctioning such expenditure as aforesaid shall thereupon each be liable to make good, in the case of the Treasury out of moneys provided by Parliament, and, in the case of the council of the county or county borough, out of the county fund or borough fund or borough rate, as the case may be, one-half of any sums so sanctioned by them and expended by the Insurance Committee on sanatorium benefit for insured persons and their dependants in the course of the year in excess of the amount available for defraying the expenses of the committee on sanatorium benefit.”

MATERNITY BENEFITS.

" Sec. 18 —(1) Where the mother of the child is herself an insured person, and is not the wife or, in the case of a posthumous child, the widow of an insured person, maternity benefit shall be treated as a benefit for her and shall be administered in cash or otherwise by the approved society of which she is a member, or, if she is not a member of any society, by the Insurance Committee ; in any other case, the benefit shall be treated as a benefit for her husband and shall be administered in cash or otherwise by the approved society of which he is a member, or, if he is not a member of any such society, by the Insurance Committee, and shall be payable in respect of a posthumous child as if the husband were still alive :

" Provided always that the mother shall decide whether she shall be attended by a duly qualified medical practitioner or by a duly certified midwife, and shall have free choice in the selection of such practitioner or midwife, but if, in the case of a midwife being selected, a duly qualified medical practitioner is subsequently summoned in pursuance of the rules made under the Midwives Act, 1902, the prescribed fee shall, subject to regulations made by the Insurance Commissioners, be recoverable as part of the maternity benefit.

" (2) In deciding whether or not they shall make an order under the Bastardy Laws Amendment Act, 1872, for the payment of the expenses incidental to the birth of a child, the justices shall not take into consideration the fact that the mother of the child is entitled to receive maternity benefit under this Part of this Act.

" Sec. 19. Without prejudice to any other legal liability, where, under the immediately foregoing section, which relates to the administration of maternity benefit, of this Act, maternity benefit is given or paid to the husband, it shall be the duty of the husband to make adequate provision to the best of his power for the maintenance and care of his wife during her confinement, and for a period of four weeks after her delivery, and if he neglects or refuses to do so he shall be liable upon summary conviction to imprisonment, with or without hard labour for any term not exceeding one month.

" Sec. 20. For the purpose of the administration of maternity benefit, the Insurance Commissioners may, if they think fit, by special order provide for the reinsurance with them of the liabilities of all approved societies in respect of maternity benefit, and the order may provide for the method of calculating the premiums to be charged against the several societies in respect of such reinsurances and may contain such other incidental, consequential, and supplemental provisions as may appear necessary for the purpose.

" Sec. 21. It shall be lawful for an approved society or Insurance Committee to grant such subscriptions or donations as it may think

fit to hospitals, dispensaries, and other charitable institutions, or for the support of district nurses, and to appoint nurses for the purpose of visiting and nursing insured persons, and any sums so expended shall be treated as expenditure on such benefits under this Part of this Act as may be prescribed.

" Sec. 22.—(1) The council of any borough or urban or rural district may agree with the council of the county in which the borough or district is situate to repay to the latter council the whole or any part of the sums payable by that council in accordance with the provisions of this Part of this Act towards the excess expenditure on medical or sanatorium benefit so far as such excess is properly attributable to the borough or district, and any sums payable by the council of the borough or district in pursuance of such an agreement shall be payable in the case of a borough, out of the borough fund or borough rate, and, in any other case, as part of the general expenses incurred by the council in the execution of the Public Health Acts.

" (2) The agreement may provide that the county council shall not raise any sum on account of any expenditure incurred by them under this Part of this Act for the purpose to which the agreement relates within the borough or urban or rural district the council of which has entered into such agreement, during the continuance of such agreement."

Again, under these headings of sanatorium and maternity benefit many questions affecting medical practitioners, hospitals, and the proper teaching of midwifery to medical students are raised, but it is impossible to discuss them yet in the absence of regulations and also experience in the working of the regulations.

Secs. 23—41 deal almost entirely with approved societies and their working which are of no particular medical importance except just this, that it seems likely that large numbers of second-class, or indeed deliberately invalid-class, lives will be admitted to societies purely for the sake of their money value to the society. This fact must be borne in mind when efforts are being made to fix terms for medical benefits to societies which have hitherto contained only more or less picked lives.

I next quote sec. 42 dealing with Post Office contributors, not to discuss it, but merely because it must obviously influence the rates for medical attendance and is therefore of great interest to medical men especially.

DEPOSIT INSURANCE.

" Sec. 42. Until the first day of January nineteen hundred and fifteen, the following provisions shall apply in the case of insured

persons (in this Act referred to as deposit contributors) who have not joined an approved society within the prescribed time, or who, having been members of an approved society, have been expelled or have resigned therefrom and have not, within the prescribed time, joined another approved society :—

- “(a) Contributions by or in respect of a deposit contributor shall be credited to a special fund to be called the Post Office fund :*
- “(b) The sums required for the payment of any sickness, disablement, or maternity benefit payable to a deposit contributor, except so far as they are payable out of moneys provided by Parliament, shall be paid out of the money standing to his credit in the Post Office fund, and his right to benefits under this Part of this Act shall be suspended on the sums standing to his credit in that fund being exhausted, except that his right to medical benefit and sanatorium benefit shall continue until the expiration of the then current year, and that the Insurance Committee, if it has funds available for the purpose and thinks fit so to do, may allow him to continue to receive medical benefit or sanatorium benefit or both such benefits after the expiration of such year :*
- “(c) Such sums as may be prescribed shall in each year be payable in respect of each deposit contributor towards the expenses incurred by the Insurance Committee in the administration of benefits :*
- “(d) Such sum as the Insurance Committee may, with the consent of the Insurance Commissioners, determine shall in each year be payable in respect of each deposit contributor for the purposes of the cost of medical benefit :*
- “(e) The sums payable in respect of a deposit contributor for the purposes of medical benefit and sanatorium benefit, and towards the expenses of administration, shall, except so far as they are payable out of moneys provided by Parliament, be deducted at the commencement of each year from the amount standing to his credit in the Post Office fund, and, if at the commencement of any year the amount so standing to his credit is insufficient to provide such sums, he shall not, unless the Insurance Committee consents, and except subject to such conditions as that committee may impose, be entitled to any benefits during that year :*
- “(f) Upon the death of a deposit contributor, four-sevenths (or in the case of a woman one-half) of the amount standing to his credit in the Post Office fund shall be paid to his*

nominee or, in default of a nomination, to the person entitled to receive the sum as if it were money payable on the death of a member of a registered friendly society, and the balance thereof shall be forfeited, and sections fifty-six to sixty-one of the Friendly Societies Act, 1896, as amended by any subsequent enactment, shall, subject to the prescribed adaptations, apply accordingly :

“(g) *Where a deposit contributor proves to the satisfaction of the Insurance Committee that he has permanently ceased to reside in the United Kingdom, four-sevenths (or in the case of a woman one-half) of the amount standing to his credit in the Post Office fund may be paid to him.*”

Secs. 44—53 refer to provisions as to special classes of insured persons ; they are not of much medical interest except in so far that medical benefits are always to the forefront as an attraction to the insured. Married women, aliens, soldiers, sailors, teachers, &c., come in here.

Secs. 54—56 referring to the financial provisions are only indirectly of medical interest.

We now come to the executive machinery of the Act in which medical practitioners are to have a share.

Sec. 57 provides for the appointment of the Commissioners to administer the Act ; they have been so appointed, and Mr. Smith-Whitaker, a medical man, is their Vice-Chairman. Separate Commissioners deal with the Act in England, Scotland, Ireland and Wales.

“*Sec. 58. The Insurance Commissioners shall, as soon as may be after the passing of this Act, appoint an Advisory Committee for the purpose of giving the Insurance Commissioners advice and assistance in connection with the making and altering of regulations under this Part of this Act, consisting of representatives of associations of employers and approved societies, of duly qualified medical practitioners who have personal experience of general practice, and of such other persons as the Commissioners may appoint, of whom two at least shall be women.*”

This committee has been appointed also with separate advisory committees for the four countries. Thirty-three medical men out of a total of over 150 have been placed here.

INSURANCE COMMITTEES.

“*Sec. 59.—(1) An Insurance Committee shall be constituted for every county and county borough.*

“(2) *Every such committee shall consist of such number of members as the Insurance Commissioners, having regard to the*

circumstances of each case, determine, but in no case less than forty or more than eighty, of whom—

- “ (a) *three-fifths shall be appointed in such manner as may be prescribed by regulations of the Insurance Commissioners so as to secure representation of the insured persons resident in the county or county borough who are members of approved societies, and who are deposit contributors, in proportion, as nearly as may be, to their respective numbers ;*
- “ (b) *one-fifth shall be appointed by the council of the county or county borough ;*
- “ (c) *two members shall be elected in manner provided by regulations made by the Insurance Commissioners, either by any association of duly qualified medical practitioners resident in the county or county borough which may have been formed for that purpose under such regulations, or, if no such association has been formed, by such practitioners ;*
- “ (d) *one member or, if the total number of the committee is sixty or upwards, two members, or, if the total number of the committee is eighty, three members, shall be duly qualified medical practitioners appointed by the council of the county or county borough ;*
- “ (e) *the remaining members shall be appointed by the Insurance Commissioners :*
- “ *Provided that—*
 - “ (i.) *The regulations with respect to the appointment of members to represent insured persons shall provide for conferring on the approved societies which have members resident in the county or county borough the power of appointing the representatives of such members, and, where an association of the deposit contributors resident in the county or county borough has been formed under such regulations as afore-said, for conferring on such association the power of appointing the representatives of the deposit contributors ;*
 - “ (ii.) *Of the members appointed by the council of the county or county borough two at least shall be women, and of the members appointed by the Insurance Commissioners one at least shall be a duly qualified medical practitioner and two at least shall be women.*
- “ (3) *The Insurance Commissioners may, where any part of the cost of medical benefit or sanatorium benefit is defrayed by the*

council of the county or county borough, increase the representation of the council and make a corresponding diminution in the representation of the insured persons.

“(4) The Insurance Commissioners may make regulations as to the appointment, quorum, term of office, and rotation of members and proceedings generally (including the appointment of sub-committees consisting wholly or partly of members of the committee) of the committee, and the employment of officers and the provision of offices by the committee, including the use by the committee, with or without payment, of any offices of a local authority, but subject to the consent of such authority, and any such regulations may provide for the constitution of district insurance committees, and for apportioning amongst the several district insurance committees any of the powers and duties of the Insurance Committee and regulating the relations of district insurance committees to the Insurance Committee and to one another :

“ Provided that the regulations so made shall require the Insurance Committee of every county (except in cases where, owing to special circumstances, the Commissioners consider it unnecessary) within six months after the commencement of this Act to prepare after consultation with the county council and submit for approval to the Commissioners a scheme for the appointment of district insurance committees for the county and prescribing the area to be assigned to each such committee, and in particular the scheme shall provide for the appointment of a district insurance committee for each borough (including the City of London and a metropolitan borough) within the county having a population of not less than ten thousand, and for each urban district within the county with a population of not less than twenty thousand, but, if the Insurance Committee or, on appeal, the Insurance Commissioners consider it expedient in the case of any such borough (outside London) or urban district, any adjoining areas may be grouped with such borough or urban district for the purpose of the appointment of a district insurance committee.

“(5) Any Insurance Committee may, and shall if so required by the Insurance Commissioners, combine with any one or more other Insurance Committees for all or any of the purposes of this Part of this Act, and, where they so combine, the provisions of this Part of this Act shall apply with such necessary adaptations as may be prescribed.

“ Sec. 60.—(1) The Insurance Committee of a county or county borough shall, in addition to the other powers and duties conferred and imposed on it by this Part of this Act, have the following powers and duties :—

“(a) It shall make such reports as to the health of insured persons

within the county or county borough as the Insurance Commissioners, after consultation with the Local Government Board, may prescribe, and shall furnish to them such statistical and other returns as they may require, and may make to them such other reports on the health of such persons and the conditions affecting the same, and may make such suggestions with regard thereto as it may think fit, and the Insurance Commissioners shall forward to the councils of the counties, boroughs, and urban and rural districts, which appear to them to be affected by or interested in any such reports, returns, or suggestions, copies of such returns, reports, and suggestions, and the reports and returns so made shall include such reports and returns as will enable an analysis and classification to be made of the persons who are deposit contributors :

" (b) It shall make such provision for the giving of lectures and the publication of information on questions relating to health as it thinks necessary or desirable, and may, if it thinks fit, for that purpose make arrangements with local education authorities, universities and other institutions :

" (c) It shall keep proper books and accounts in the prescribed form and shall, when required, submit such accounts to audit by auditors appointed by the Treasury.

" (2) For the purpose of assisting Insurance Committees in the exercise and performance of their powers and duties under this Part of this Act, and with a view to promoting co-operation between such committees and the councils of counties, boroughs, and urban and rural districts, any medical officer of health may, at the request of an Insurance Committee and with the consent of the council by whom he is appointed, attend meetings of the committee and give such advice and assistance as is in his power.

" Sec. 61.—(1) All sums available for sanatorium benefit in a county or county borough, and all sums payable in respect of the members of approved societies and deposit contributors resident in the county or county borough for the purposes of medical benefit and administrative expenses in any year, shall be paid or credited to the Insurance Committee at the commencement of that year.

" (2) There shall also be paid to the Insurance Committee in every year by each approved society having members who are insured persons resident in the county or county borough, in respect of each such member, the sum of one penny towards the administrative expenses of the committee :

" Provided that, if the special circumstances of any county are such that the Insurance Commissioners consider that the travelling

expenses of the members of the committee should be repaid to them by the committee, the Insurance Commissioners may authorise such repayment, and in such case may increase the said sum of one penny to such sum, not exceeding twopence, as they may determine.

" (3) It shall be lawful for any local authority, out of any fund or rate out of which the expenses of the authority are payable, to subscribe such sums as it may think fit towards the general purposes of the Insurance Committee.

" Sec. 62. Where a local medical committee has been formed for any county or county borough or for any area for which a district committee has been formed and the Insurance Commissioners are satisfied that such committee is representative of the duly qualified medical practitioners resident in the county or county borough or such area as aforesaid, they shall recognise such committee, and, where a local medical committee has been so recognised, it shall, subject to regulations made by the Insurance Commissioners, be consulted by the Insurance Committee or district committee, as the case may be, on all general questions affecting the administration of medical benefit, including the arrangements made with medical practitioners giving attendance and treatment to insured persons, and shall perform such other duties, and shall exercise such powers, as may be determined by the Insurance Commissioners."

The representation of the medical profession on insurance committees, and the statutory recognition of a local medical committee formed subjects of very heated controversy between the Government and the profession, and also within the profession. I can only quote the sections as they stand as I am rigidly avoiding discussion on disputed points.

EXCESSIVE SICKNESS.

" Sec. 63.—(1) Where it is alleged by the Insurance Commissioners or by any approved society or Insurance Committee that the sickness which has taken place among any insured persons, being, in the case where the allegation is made by a society or committee, persons for the administration of whose sickness and disablement benefits the society or committee is responsible, is excessive, and that such excess is due to the conditions or nature of employment of such persons, or to bad housing or insanitary conditions in any locality, or to an insufficient or contaminated water supply, or to the neglect on the part of any person or authority to observe or enforce the provisions of any Act relating to the health of workers in factories, workshops, mines, quarries, or other industries, or relating to public health, or the

housing of the working classes, or any regulations made under any such Act, or to observe or enforce any public health precautions, the Commissioners or the society or committee making such allegation may send to the person or authority alleged to be in default a claim for the payment of the amount of any extra expenditure alleged to have been incurred by reason of such cause as aforesaid, and, if the Commissioners, society, or committee, and such person or authority fail to arrive at any agreement on the subject, may apply to the Secretary of State or the Local Government Board, as the case may require, for an inquiry, and thereupon the Secretary of State or Local Government Board may appoint a competent person to hold an inquiry."

This section, which ends up with the action to be taken dependent upon the result of the inquiry, is obviously excellent in theory ; for its practical results we must wait and see, but it is certain that an M. O. H. must be largely concerned in any such inquiry from the beginning of it to the end.

" Sec. 68.—(1) Where the medical practitioner attending on any insured person in receipt of sickness benefit certifies that the levying of any distress or execution upon any goods or chattels belonging to such insured person and being on premises occupied by him, or the taking of any proceedings in ejectment or for the recovery of any rent or to enforce any judgment in ejectment against such person, would endanger his life, and such certificate has been sent to the Insurance Committee and has been recorded in manner herein-after provided, it shall not be lawful during any period named in the certificate for any person to levy any such distress or execution or to take any such proceedings or to enforce any such judgment against the insured person."

I quote this section as another illustration of the variety of certificates that may be demanded—with no obvious payment—from medical men working under the Act.

The only other section of the Act I propose to quote is—

*" Sec. 81.—(9) An insured person in Ireland shall not be entitled to medical benefit under this Part of this Act, and the provisions with respect to medical benefit shall not apply :
 " Provided that medical benefit for an insured person being a member of an approved society shall be deemed to be included amongst the additional benefits specified in Part II. of the Fourth Schedule to this Act, and that such medical benefit when provided shall be administered by the Insurance Committee in accordance with the provisions of this Part of this Act, unless the Irish Insurance Commissioners otherwise direct,"*

which remains as a fact, whatever may be the opinion of the medical profession either on it or on the reasons for it.

This chapter must obviously be rewritten within a very short time.

While this chapter was going through the press the Commissioners published their Draft Regulations on the administration of medical benefits under the Act. I have read the Regulations (and the criticisms on them) with some care, and am bound to conclude that it is quite impossible for me to insert them here on the following grounds: (1) that they are extremely long and complicated; (2) that they have aroused so much hostile criticism that either they must be drastically amended in a very short time or the medical profession will be quite unanimous in refusing to work the "Medical Benefits" sections of the Act, and in either alternative the printing of the Regulations here would be useless.

The Act remains as a fact, but its working is still problematical. In Nov. 1912, The Brit. Med. Assoc. by an overwhelming majority declined to work the Act under the regulations then existing. It, however, opened the door to further negotiations.

CHAPTER XIV

VIVISECTION

" 39 & 40 Vic. c. 77. *An Act to amend the Law relating to Cruelty to Animals.* Aug. 15, 1876."

This Act is certainly of transcendental importance to our profession as a whole, though of little importance to most practitioners in their daily work ; it will not be necessary therefore to deal very fully with it, though the Act should certainly be obtained—and studied—by everyone who holds or who wishes to hold a licence under it.

" *Sec. 2. A person shall not perform on a living animal any experiment calculated to give pain, except subject to the restrictions imposed by this Act. Any person performing or taking part in performing any experiment calculated to give pain, in contravention of this Act, shall be guilty of an offence against this Act, and shall, if it be the first offence, be liable to a penalty not exceeding fifty pounds, and if it be the second or any subsequent offence, be liable, at the discretion of the court by which he is tried, to a penalty not exceeding one hundred pounds or to imprisonment for a period not exceeding three months.*

" *Sec. 3. The following restrictions are imposed by this Act with respect to the performance on any living animal of an experiment calculated to give pain ; that is to say,*

- " (1) *The experiment must be performed with a view to the advancement by new discovery of physiological knowledge or of knowledge which will be useful for saving or prolonging life or alleviating suffering ; and*
- " (2) *The experiment must be performed by a person holding such licence from one of Her Majesty's Principal Secretaries of State, in this Act referred to as the Secretary of State, as is in this Act mentioned, and in the case of a person holding such conditional licence as is herein-after mentioned, or of experiments performed for the purpose of instruction in a registered place ; and*
- " (3) *The animal must during the whole of the experiment be under the influence of some anæsthetic of sufficient power to prevent the animal feeling pain ; and*
- " (4) *The animal must, if the pain is likely to continue after the*

effect of the anæsthetic has ceased, or if any serious injury has been inflicted on the animal, be killed before it recovers from the influence of the anæsthetic which has been administered ; and

“(5) *The experiment shall not be performed as an illustration of lectures in medical schools, hospitals, colleges, or elsewhere ; and*

“(6) *The experiment shall not be performed for the purpose of attaining manual skill.*”

Exceptions are then provided for—

(a) Experiments absolutely necessary for instruction ;

(b) Experiments without anæsthetics, where these would frustrate the purpose of the experiment ;

(c) Experiments in which the animal is allowed to recover from the anæsthetic when the death of the animal would frustrate the purpose of the experiment ;

(d) Experiments for testing other vivisection discoveries.

Sec. 4 states that curari is not to be deemed an anæsthetic.

Sec. 5 exempts cats, dogs, horses, asses, or mules from experiment without special certificate.

Sec. 6 prohibits the exhibition in public or the advertising of such exhibition, of experiments calculated to give pain.

“*Sec. 7. The Secretary of State may insert, as a condition of granting any licence, a provision in such licence that the place in which any experiment is to be performed by the licensee is to be registered in such manner as the Secretary of State may from time to time by any general or special order direct ; provided that every place for the performance of experiments for the purpose of instruction under this Act shall be approved by the Secretary of State, and shall be registered in such manner as he may from time to time by any general or special order direct.*

“*The Secretary of State may licence any person whom he may think qualified to hold a licence to perform experiments under this Act. A licence granted by him may be for such time as he may think fit, and may be revoked by him on his being satisfied that such licence ought to be revoked. There may be annexed to such licence any conditions which the Secretary of State may think expedient for the purpose of better carrying into effect the objects of this Act, but not inconsistent with the provisions thereof.*”

Sec. 9 states that reports of experiments may be required.

Sec. 10 provides for official inspection of registered places.

“*Sec. 11. Any application for a licence under this Act and a certificate given as in this Act mentioned must be signed by one or more of the following persons ; that is to say,*

- " The President of the Royal Society ;*
- " The President of the Royal Society of Edinburgh ;*
- " The President of Royal Irish Academy ;*
- " The Presidents of the Royal Colleges of Surgeons in London, Edinburgh, or Dublin ;*
- " The Presidents of the Royal Colleges of Physicians in London, Edinburgh, or Dublin ;*
- " The President of the General Medical Council ;*
- " The President of the Faculty of Physicians and Surgeons of Glasgow ;*
- " The President of the Royal College of Veterinary Surgeons, or the President of the Royal Veterinary College, London, but in the case only of an experiment to be performed under anæsthetics with a view to the advancement by new discovery of veterinary science ;*

and also (unless the applicant be a professor of physiology, medicine, anatomy, medical jurisprudence, materia medica, or surgery in a university in Great Britain or Ireland, or in University College, London, or in a college in Great Britain or Ireland, incorporated by royal charter) by a professor of physiology, medicine, anatomy, medical jurisprudence, materia medica, or surgery in a university in Great Britain or Ireland, or in University College, London, or in a college in Great Britain or Ireland, incorporated by royal charter.

" Provided that where any person applying for a certificate under this Act is himself one of the persons authorised to sign such certificate, the signature of some other of such persons shall be substituted for the signature of the applicant.

" A certificate under this section may be given for such time or for such series of experiments as the person or persons signing the certificate may think expedient.

" A copy of any certificate under this section shall be forwarded by the applicant to the Secretary of State, but shall not be available until one week after a copy has been so forwarded.

" The Secretary of State may at any time disallow or suspend any certificate given under this section."

The remainder of the Act deals with legal proceedings against offenders and extends the Act to Scotland and Ireland with appropriate changes in nomenclature of officers and modes of procedure.

COMMENTS.

It is only necessary to make clear a few points for the information of practitioners : thus, should a medical practitioner wish at any time to make experiments on living (vertebrate) animals, he must—

1. Have clearly in his mind and express on paper the general objects and tenor of his desires.

2. He must then obtain a form of application for a licence [such forms are on sale at Wyman & Sons, Fetter Lane, London, E.C., and elsewhere], and certificates [regarding the provisoes of sec. 2, &c.].

3. He must either by personal application or through a mutual friend of recognised standing, persuade one of the persons mentioned in sec. 11 that his application is genuine and worthy of support, and this person must then sign the application.

4. Let him then remember that without special certificates, formally obtained, his experiments must be performed in a licensed place; in other words, a place as well as a man has as a rule, to be licensed.

The Act of 1911 or 1912 has more interest for fishermen than medical practitioners.

CHAPTER XV

ACTS RELATING TO PENSIONS AND SUPERANNUATION ALLOWANCES, &c.

So far as I can appreciate the position, from the Acts in my possession, the first Act bearing on this subject is "57 Geo. 3, c. 65. *An Act to enable His Majesty to recompense the Services of Persons holding or who have held certain high and efficient civil offices.*"

I have not, however, obtained this Act and do not, therefore, know whether any medical offices are therein mentioned, my purpose being merely to show the recognition of the principle of civil pensions by an Act of Parliament. "6 Geo. 4, c. 90" amended this Act, but requires no further notice. "4 & 5 Will. 4, c. 24. *An Act to alter, amend and consolidate the Laws for regulating the Pensions, Compensations and Allowances to be made to Persons in respect of their having held Civil offices in His Majesty's Service. July 25, 1834,*" limited pensions to £2,000 a year and repealed several amending Acts ["50 Geo. 3, c. 117; 51 Geo. 3, c. 21; 3 Geo. 4, c. 113; 5 Geo. 4, c. 104; 6 Geo. 4, c. 87, sec. 8"] and instituted a scale of allowances based on twelfths of the salary; it also introduced a further principle of "annual abatements from salaries" in order to provide a pension fund, otherwise it seems to be only of historical and referential interest.

By "20 & 21 Vic. c. 37" the abatement principle seems to have been repealed, and in 1859 "22 Vic. c. 26. *An Act to amend the Laws concerning Superannuations and other Allowances to Persons having held Civil offices in the Public Services. April 19, 1859*" was passed of which sec. 2 is important in that it is now the generally accepted rate for calculating pensions in cases which are not otherwise specifically provided for, *i.e.*, it is the principle to which most attention is paid in private occupations, &c., when pensions are being considered.

It runs—

"Sec. II. *Subject to the Exceptions and Provisions herein-after contained, the Superannuation Allowance to be granted after the Commencement of this Act to Persons who shall have served in an established Capacity in the permanent Civil Service of the State, whether their Remuneration be computed by Day Pay, weekly Wages,*

or annual Salary, and for whom Provision shall not otherwise have been made by Act of Parliament, or who may not be specially excepted by the Authority of Parliament, shall be as follows ; (that is to say,)

“ To any Person who shall have served Ten Years and upwards, and under Eleven Years, an annual Allowance of Ten Sixtieths of the annual Salary and Emoluments of his Office :

“ For Eleven Years, and under Twelve Years, an annual Allowance of Eleven Sixtieths of such Salary and Emoluments :

“ And in like Manner a further Addition to the Annual Allowance of One Sixtieth in respect of each additional Year of such Service, until the Completion of a Period of Service of Forty Years, when the annual Allowance of Forty Sixtieths may be granted ; and no Addition shall be made in respect of any Service beyond Forty Years :

Provided always, that if any Question should arise in any Department of the Public Service as to the Claim of any Person or Class of Persons for Superannuation under this Clause, it shall be referred to the Commissioners of the Treasury, whose Decision shall be final.”

Sec. 5 provided that when a person was compelled “ to quit the Public Service by reason of severe Bodily Injury occasioned, without his own Default in the discharge of his public Duty, a Gratuity not exceeding Three Months’ Pay for every Two Years of Service, or a Superannuation Allowance not exceeding Ten Sixtieths of the annual salary and Emoluments of his office, might be granted him by the Treasury if it saw fit.”

Secs. 6 and 7 provided similarly that the Treasury might make grants to those who had to retire from “ Infirmary of Mind or Body,” or from abolition of the office held by an individual.

Secs. 8 and 9 provided for special circumstances under which the grant might be increased or diminished (of no special medical interest).

“ Sec. X. It shall not be lawful to grant any Superannuation Allowance under the Provisions of this Act to any Person who shall be under Sixty Years, unless upon Medical Certificate to the Satisfaction of the Commissioners of the Treasury that he is incapable, from Infirmary of Mind or Body, to discharge the Duties of his Situation, and that such Infirmary is likely to be permanent.”

The other sections not noticed are of no special interest to medical practitioners.

It would appear that the Government is now less generous, for the latest Act I can find relating to the Civil Service of the Crown is “ 9 Edw. 7, c. 10. An Act to amend the Superannuation Acts,

1834 to 1892. *Sep. 20, 1909,*" secs. 1 and 2 of which materially amend the Act of 1859, for they run—

" 1.—(1) *The proportion of the annual salary and emoluments on which the scale of the superannuation allowances to be granted to male civil servants is to be calculated shall, in the case of civil servants who enter the service after the passing of this Act, be one-eightieth instead of one-sixtieth, and accordingly section two of the Superannuation Act, 1859, shall, as respects such civil servants have effect as if for the words 'sixtieth' and 'sixtieths,' wherever they occur, there were substituted the words 'eightieth' and 'eightieths.'*

" (2) *The Treasury may grant by way of additional allowance to any such civil servant who retires after having served for not less than two years, in addition to the superannuation allowance (if any) to which he may become entitled or the gratuity (if any) which may be granted to him under section six of the Superannuation Act, 1859, a lump sum equal to one-thirtieth of the annual salary and emoluments of his office multiplied by the number of completed years he has served, so, however, that the additional allowance shall in no case exceed one and a half times the amount of such salary and emoluments."*

In this Act I find mentioned Acts of 1887 and of 1892, but these would seem not to be of special medical interest.

The remainder of the 1909 Act seems mainly to deal with regulations by which the Treasury may vary the scale both of pensions and allowances.

I must now deal with some special Provisions, or Acts, concerned with special services to which pensions are attached.

FOR MILITARY MEDICAL MEN OR MEMBERS OF THE ROYAL ARMY MEDICAL CORPS.

The regulations issued from the War Office, dated 1911, contain the following provisions relative to pensions, retiring allowances:—

Reg. 14. A lieutenant who at the time of passing the examination to the R. A. M. C., holds, or is about to hold, a resident appointment in a recognised civil hospital, may be seconded for the period, not exceeding one year, during which he holds the appointment. While seconded . . . his service will reckon towards promotion, increase of pay, gratuity or pension.

This regulation, while encouraging clinical experience, shows the value of passing the entrance examination as early as possible.

Reg. 21. An officer is eligible for promotion to the rank of captain on the completion of three-and-a-half years' service, and to

the rank of major on the completion of twelve years' total service, provided that in each case he has passed the necessary examination and is recommended for promotion.

Reg. 26. An officer may reckon towards his promotion any time, not exceeding one year, during which he may have been on half-pay on account of ill-health caused by military service; and also any time, not exceeding two years, during which he may have been on half-pay on reduction, an officer will, while seconded, continue to be eligible for selection for promotion precisely as if he had remained on the establishment, and his service, while seconded, will reckon towards such promotion.

Promotions naturally affect pensions.

Reg. 32. An officer may be permitted to resign or retire voluntarily at any time with the approval of the Army Council.

Reg. 33. The retirement of officers is compulsory as follows:—

Surgeon-General on attaining the age of sixty.

Colonel on attaining the age of fifty-seven.

Other officers on attaining the age of fifty-five.

Reg. 34. If a major has been superseded for promotion, he is required to retire on the completion of twenty-five years' service, or if he fails to qualify for promotion, on the completion of twenty years' service.

Reg. 35. A captain who fails to pass the examination for promotion to the rank of major is permitted to present himself for examination at the next succeeding examination, and should he again fail, he is retired at once on any gratuity for which he may be eligible, or if not so eligible he is retired as soon as he completes five years service in the rank of captain.

Reg. 37. A candidate who has been specially employed in consequence of a national emergency, either as an officer or in a position usually filled by an officer, will be allowed to reckon such service towards retired pay and gratuity.

Reg. 38. Scale of retired pay—

Director General, A. M. S.—After three years as Director-General, with thirty years service, £1,125 per annum.

Surgeon-General.—£2 per day.

Colonel.—Under four years' service as such, but with thirty years' total service, £1 10s. per day; after four years' service as such, £1 15s. per day. If not qualified as above, the rate for lieutenant-colonel.

Lieutenant-Colonel.—After twenty years' service, per day, £1; after twenty-five years' service, per day £1 2s. 6d.; after twenty-eight years' service, per day, £1 7s. 6d.

Major.—After twenty years' service, per day £1.

Major or Captain.—After five years' service in the rank of captain, £1,000 gratuity; after three years' service in the rank of major, £1,800 gratuity; after six years' service in the rank of major, £2,500 gratuity.

Except in the case of a colonel or lieutenant-colonel, an officer who on voluntary retirement has served less than three years in the rank from which he retires, is entitled only to the gratuity or retired pay assigned to the next lower rank.

Reg. 39. An officer with at least three but not more than six years' service may be permitted to join the Reserve of Officers for

a period of seven years. While so situated he will receive a retaining fee at the rate of £25 a year.

With the sanction of the Army Council he may be permitted to return to the active list, and if the period he has been in the Reserve amounts to at least one year, and not more than three years, he will be allowed to reckon one-third of such period towards promotion, gratuity, and pension.

Reg. 54. Under certain conditions . . . wound pensions and gratuities are granted to officers.

Reg. 55. Pensions may be granted to the widows, and compassionate allowances to the children, of officers. . . .

FOR NAVAL MEDICAL SERVICE.

Regulations issued for the Royal Naval Medical Service contain the following:—

Reg. 13. A candidate who at the time of passing the examination for entry into the Medical Branch of the Royal Navy holds or is about to hold an appointment as Resident Medical or Surgical Officer in a recognised civil hospital, may be allowed to serve in such civil appointment provided that the period of such service after the date of entry into the Royal Navy does not exceed one year. Pay from Naval funds will be withheld from officers while thus serving, but the time concerned will reckon for increase of full and half pay while on the active list, and retired pay or gratuity on retirement or withdrawal, except that no officer will be allowed to retire on a gratuity until he has completed 4 years' service exclusive of the time spent as Resident Medical or Surgical Officer. The eligibility of this appointment to count for time will be decided by the Medical Director-General.

Reg. 14. The seniority of Surgeons on entry will be determined by the sum total of the marks they obtain at the London examination and the examinations at the conclusion of their probationary period as Acting Surgeon. Their names will then be placed in the Official Navy List. Candidates who hold or are about to hold a post as Resident Medical or Surgical Officer to a recognised civil hospital will retain the position in the list which they obtained on entry, and when their period of service as Resident Officer is over, they will join the next "Acting Surgeons' Course," and will be required to obtain qualifying marks. Surgeons entered without competition will take seniority next after the last Surgeon entered at the same time by competition.

Reg. 19. A Surgeon who fails to obtain a pass [in the examination for Staff Surgeon] will be allowed a second trial, but should he again be unsuccessful, he will be compulsorily retired on attaining 8 years' seniority, with such gratuity as the Admiralty may see fit to grant, but not exceeding £500.

Reg. 28. Retirement and retired pay and gratuities.

(a) Compulsory retirement will be as follows:—

Retirement and Retired Pay and Gratuities.

28.—(a) Compulsory retirement will be as follows :—

Surgeon-General and Deputy Surgeon-General, R.N.	At the age of 60, or at any age, if he has had 3 years' non-employment in any one rank ; or after 4 years' continuous non-employment in any two ranks combined. Except that if in any particular case the Lords Commissioners of the Admiralty may consider that the interests of the public service will be materially advanced by the further retention of a Surgeon-General on the active list, the age for the retirement of such Surgeon-General may be extended to 62.	To be retired irrespective of age if found physically unfit for service.
Fleet Surgeon, Staff Surgeon, and Surgeon.	At the age of 55, or at any age, if he has had 3 years' non-employment in any one rank ; or after 4 years' continuous non-employment in any two ranks combined.	

(b) Voluntary retirement and withdrawal will be allowed as follows :—

(i.) Every officer will have the option, subject to their Lordships' approval, of retiring after 20 years' full-pay service, on the scale of retired pay provided in paragraph 29, or with a gratuity on the scale provided in that paragraph if not eligible for retired pay.

(ii.) At the expiration of 4, 8, 12, or 16 years' full-pay service, every officer will be permitted, subject to their Lordships' approval, to withdraw from the Naval Service receiving a gratuity on the scale laid down in paragraph 29.

NOTE.—The 4 years' service is exclusive of time served as resident officer in a civil hospital (*see* paragraph 13).

The name of an officer so withdrawing will be removed from the lists of the Navy, with which all connection will then be severed, except in the case of officers who withdraw after four years, who are liable to serve in the Reserve (*see* paragraph 38).

In order that arrangements may, as far as possible, be made for the relief of officers who may wish to withdraw on a gratuity, it is desirable that six months' notice of their wish should be forwarded for the consideration of their Lordships.

(iii.) Applications from officers to retire or withdraw, or to resign their Commissions, will receive every consideration, but no officer will, as a rule, be permitted to resign within three years from the date of entry.

(iv.) The Admiralty reserve to themselves power to remove any officer from the list for misconduct.

Reg. 29. Gratuities and retired pay will be awarded on retirement and withdrawal on the undermentioned scale :—

Rank.	Gratuities.	Daily.	Yearly.
	£ s. d.	£ s. d.	£ s. d.
Surgeon, Staff Surgeon, and Fleet Surgeon :			
After 4 years' full-pay service.	500 0 0*	—	—
„ 8 „ „ } including service	1,000 0 0†	—	—
„ 12 „ „ } allowed	1,500 0 0	—	—
„ 16 „ „ } by para-graph 13.	2,250 0 0	—	—

* Applicable to officers entering after August 11th, 1903.

† In the case, however, of a Surgeon retired on attaining 8 years' seniority for failure to pass for Staff Surgeon, the gratuity awarded will not exceed £500 (*see* paragraph 19).

Rank.	Gratuities.	Daily.	Yearly.
		£ s. d.	£ s. d.
Fleet Surgeon :			
After 20 years' service ..	—	*1 0 0	365 0 0
After 24 years' service (including proportion of half-pay time).	—	*1 2 6	410 12 6
After 27 years' service (including proportion of half-pay time).		*1 5 0	456 5 0
After 30 years' service (including proportion of half-pay time) or on compulsory retirement at the age of 55.	—	*1 10 0	547 10 0
Deputy Surgeon-General ..	—	1 15 0	638 15 0
Surgeon-General	—	2 0 0	730 0 0

* To obtain this rate an officer must hold the rank of Fleet Surgeon.

Reg. 30. An officer retired with less than 20 years' service on account of disability, contracted in and attributable to the Service, will receive half-pay of his rank, or, with the consent of their Lordships, a gratuity on the scales given in paragraph 29, but such officer will not be entitled to receive any special compensation for the disability in addition to the gratuity as above.

Reg. 31. An officer retired with less than 20 years' service on account of disability, contracted in but not attributable to the Service, will receive :—

(a) If he has over 8 years' full-pay service, either a gratuity

on the scale given in paragraph 29, or half-pay, according as their Lordships think fit :

- (b) If he has less than 8 years' full-pay service, such gratuity as their Lordships think fit, not exceeding the rate of £125 for each year of full-pay service.

Reg. 32. Under circumstances other than those specified in paragraphs 30 and 31, and other than misconduct, neglect of duty, &c., an officer retired with less than 20 years' service will not be allowed half-pay or retired pay, but will receive a gratuity on the scale laid down in paragraph 29, if he has eight years' full-pay service, and on that provided in paragraph 31 (b) should his full-pay service not amount to eight years.

Reg. 33. The power vested in their Lordships of granting reduced rates of half pay and retired pay in cases of misconduct is extended to the award of gratuities on retirement, and the gratuity awarded will be reduced to such an amount as is thought fit.

Reg. 34. An officer retiring after 20 years' full-pay service will be eligible, if recommended by the Medical Director-General, for distinguished or meritorious service, to receive a step of honorary rank, such step to be awarded at their Lordships' discretion and not to confer any claim to increased retired pay or of widow's pension.

Reg. 35. All retired officers will be liable, till the age of 55, to serve in time of declared national emergency, in a rank not lower than that held on retirement.

This liability will not exist in cases of withdrawal on the conditions specified in paragraph 28 (ii.), except as indicated in that paragraph as regards officers who withdraw after four years on a gratuity of £500.

Reg. 36. Retired officers will receive special consideration as regards appointments on shore connected with the Admiralty.

Widow's Pension.

Reg. 37. Widow's pensions and compassionate allowances for children are given under the conditions specified in the King's Regulations and Admiralty Instructions, and on the scale laid down in Appendix XVIII. A.

When an officer retires, or withdraws, on a gratuity, his widow and children will have no claim to pension or compassionate allowance.

Officers serving in the Reserve, who during re-employment are injured on duty, or lose their lives from causes attributed to the Service, come under the same regulations as regards compensation for themselves, or pensions and compassionate allowances for their widows and children, as officers of the same rank on the permanent Active List.

Service in the Reserve of Naval Medical Officers.

Reg. 38. The special attention of Candidates is directed to the following rules under which officers are allowed to withdraw after 4 years' full-pay service in the Royal Navy, with the advantage of joining the Reserve of Naval Medical Officers :—

After 4 years' service in the Royal Navy, an officer, if he wishes, may pass from Active Service to the Reserve of Naval Medical Officers, when he will reap the following advantages :—

- (i.) He will be granted a gratuity of £500 on passing into the Reserve.

- (ii.) His name will be retained in the Navy List ; he will retain his naval rank and be entitled to wear his naval uniform under the regulations applying to officers on the Retired and Reserved Lists of His Majesty's Navy.
- (iii.) If he agree to remain in the Reserve for four years, he will receive a retaining fee of £25 per annum. If, at the expiration of this period, he agree to remain in the Reserve for a further period of four years, he will continue to receive the same retaining fee.

Should an officer prefer it, however, he may simply enter the Reserve for a period not exceeding eight years, with power to give six months' notice of his intention to resign his position at any time (in which case he will receive no retaining fee). He may also adopt this method of Reserve Service after the expiration of four years served under the conditions referred to in (iii.), by renouncing his retaining fee for his last 4 years' service in the Reserve.

No officer will be allowed to remain in the Reserve for a longer period than eight years.

IN THE INDIAN MEDICAL SERVICE.

Regulations, dated May, 1912.

Reg. 14. A lieutenant who, within a reasonable period before the date at which he would otherwise sail for India, furnishes proof of his election to a Resident Appointment or to a preliminary appointment leading in due course to a Resident Appointment at a recognised civil hospital (*see* Appendix II.), may be seconded for a period not exceeding one year from the date on which he takes up such appointment, provided that he joins it within three months of passing his final examination, and that he holds himself in readiness to sail for India within fourteen days of the termination of the appointment. While seconded he will receive no pay from Indian funds, but his service towards promotion, increase of pay, and pension, will reckon from the date borne on his commission. No officer can be seconded until he has passed his final examination.

GRADES AND PRECEDENCE.

Reg. 5. The grades of officers in the Indian Medical Service are six in number, viz. :—

1. Surgeon-General (ranking as Major-General).
2. Colonel.
3. Lieutenant-Colonel.
4. Major.
5. Captain.
6. Lieutenant.

PROMOTION.

Reg. 6. A lieutenant's commission dates from the day on which the result of the examination at which he is admitted is announced.

Reg. 7. A lieutenant is promoted to captain on completion of 3 years' full-pay service from the date of first commission, if he has previously qualified for promotion in such manner as may be prescribed.

Reg. 8. A captain is promoted to major on completion of 12 years' full-pay service but this promotion may be accelerated by not more than six months in the case of officers who fulfil certain specified conditions.

Reg. 9. A major is promoted to lieutenant-colonel on completion of 8 years' full-pay service in the rank of major, and a certain number of lieutenant-colonels may be specially selected for increased pay for ability and merit.

Reg. 10. All promotions from the rank of lieutenant-colonel to that of colonel, and from the rank of colonel to that of Surgeon-General, are given by selection for ability and merit.

Reg. 11. On appointment as Honorary Physician or Honorary Surgeon to His Majesty, an officer below the rank of colonel is promoted to that rank, remaining supernumerary until absorbed.

Reg. 12. For distinguished service an officer of the Indian Medical Service may receive special promotion.

May, 1912.

RETIRING PENSIONS AND HALF-PAY.

Reg. 32. Officers of the Indian Medical Service are allowed to retire on the following scale of pension, on completion of the required periods of service:—

After 17 years' service for pension					£	Per annum.
„	18	„	„	„	320	„
„	19	„	„	„	360	„
„	20	„	„	„	400	„
„	21	„	„	„	420	„
„	22	„	„	„	440	„
„	23	„	„	„	460	„
„	24	„	„	„	480	„
„	25	„	„	„	500	„
„	26	„	„	„	540	„
„	27	„	„	„	580	„
„	27½	„	„	„	600	„
„	28	„	„	„	620	„
„	29	„	„	„	660	„
„	30	„	„	„	700	„

Reg. 33. Service for pension reckons from date of first commission, and includes all leave taken under the rules quoted in paragraphs 24—30. (*See also* paragraph 41.)

Reg. 34. A Surgeon-General, after 3 years' active employment in that appointment, is entitled to retire upon a pension of £350 per annum, in addition to that to which he may be entitled under the above scale.

Reg. 35. A colonel is entitled, after 3 years' active employment in that appointment, to retire upon a pension of £125 per annum, in addition to the pension to which he may be entitled under the above scale, and after five years of such employment on an additional pension of £250 in all.

Reg. 36. In each of the above cases stated in paragraphs 34 and 35 eight months' absence on leave, as well as privilege leave, is allowed to count towards actual service in those grades. (*See* paragraph 29.)

Reg. 37. A Surgeon-General or colonel who has completed his term of service and has reverted to British pay (*see* paragraph 20) may reside in Europe, at the same time qualifying for a higher pension.

Reg. 38. With a view to maintain the efficiency of the service, all officers of the rank of lieutenant-colonel and major are placed on the

retired list when they have attained the age of 55 years, the Director-General, Indian Medical Service, when he has attained the age of 62 years, and all other Surgeon-Generals and colonels when they have attained the age of 60 years. In any special case, where it would appear to be for the good of the Service that an officer should continue in employment, he may be so continued, subject in each case to the sanction of the Secretary of State for India in Council.

Reg. 39. Officers placed on temporary half-pay (*see* paragraph 26) are granted half-pay at the following rates :—

	Rates of Half pay.					
	Per Diem.			Per Annum.		
	£	s.	d.	£	s.	d.
Under 5 years' service	0	6	0	109	10	0
After 5 years' service	0	8	0	146	0	0
„ 10 years' service	0	10	0	182	10	0
„ 15 years' service	0	13	6	246	7	6
Lieutenant-Colonel, under 3 years' service as as such	1	0	0	365	0	0
„ over 3 years' service as such	1	7	6	501	17	6

Surgeon-Generals and colonels, when in circumstances in which other officers would draw half pay, receive the unemployed pay of their rank. (*See* paragraphs 20.) Officers cannot retire *in India* on half pay.

An officer of less than 3 years' service, although he may be transferred to the half-pay list under the general conditions of transfer, will not be granted any half pay unless his unfitness has been caused by duty.

INVALID PENSIONS.

Reg. 40. An officer who has become permanently incapacitated for further service in India on account of unfitness caused by duty may be granted an invalid pension on the following scale :—

After 16 years' pension service	£ 272	Per annum.
„ 15 „ „ „	252	„
„ 14 „ „ „	232	„
„ 13 „ „ „	212	„
„ 12 „ „ „	192	„

Reg. 41. Time (not exceeding one year) passed on temporary half pay reckons as service for promotion and pension, in the case of an officer placed on half pay on account of medical unfitness caused by duty, military or civil.

Reg. 42. Officers of the Indian Medical Service are liable, after retirement on pension before completing 30 years' service, to recall to military duty in case of any great emergency arising, up to 55 years of age.

WOUND PENSIONS.

Reg. 43. Officers are entitled to the same allowances on account of wounds received in action and injuries sustained through the per-

formance of military duty, otherwise than in action, as are granted to combatant officers of His Majesty's Indian Military Forces holding the corresponding military rank.

FAMILY PENSIONS.

Reg. 44. The claims to pension of widows and families of officers are treated under the provision of such Royal Warrant regulating the grant of pensions to the widows and families of British officers as may be in force at the time being.

Reg. 45. The widows and families of officers are also entitled to pensions under the Indian Service Family Pension Regulations, and subscription under those Regulations, from the date of arrival in India, is a condition of appointment, except in the case of natives of India from whom it is optional.

FOR POOR LAW OFFICERS, MEDICAL OFFICERS OF ASYLUMS AND SCHOOLS, &c.

" 59 & 60 Vic. c. 50. *An Act to provide for Superannuation Allowances to Poor Law Officers and Servants, and for Contributions towards such allowances by such Officers and Servants . . . Aug. 14, 1896,*" has this interest for medical men, that by it the whole of 33 & 34 Vic. c. 94 (1870), known as The Medical Officers' Superannuation Act, 1870 was repealed, so that poor law medical officers come under the present Act as well as some other public medical officers defined by sec. 14, as follows :—

" The provisions of this Act shall apply to the managers of district schools and sick asylums, and to the managers of the Metropolitan asylums district, and to their officers and servants in like manner as nearly as may be as they apply to guardians and to their officers and servants . . . "

So that it would appear to apply to school medical officers and to those serving in asylums, &c.

" Sec. 2. Subject to the provisions of this Act, every officer and servant in the service or employment of the guardians of a union or parish who shall become incapable of discharging the duties of his office with efficiency, by reason of permanent infirmity of mind or body, or of old age, or who shall have attained the age of sixty years and have completed an aggregate service of forty years, or who shall have attained the full age of sixty-five years, shall be entitled on resigning, or otherwise ceasing to hold his office or employment, to receive during life out of the common fund of the union, a superannuation allowance according to the scale laid down in this Act.

" An officer or servant shall not be entitled to an allowance on the ground of old age unless he has completed the full age of sixty years.

" Where an officer or servant has attained the age of sixty-five

years and the guardians are of opinion that it would be expedient in the interests of the public service that he should cease to hold his office or employment, it shall be competent for them to require him to retire upon payment to him of the superannuation allowance to which he may be entitled under this Act.

"Sec. 3. The scale for superannuation allowances under this Act shall be as follows, that is to say :—

"An officer or servant who has served for ten years but less than eleven years shall be entitled to an annual allowance equal to ten-sixtieths of the average amount of his salary or wages and emoluments during the five years ending on the quarter day which immediately precedes the day on which he ceases to hold his office or employment,

"With an addition of one-sixtieth of such average amount for every additional completed year of service until the completion of a period of service of forty years, when a maximum allowance of forty-sixtieths shall be granted.

"Sec. 4. All service by an officer or servant under any authority or authorities to whom this Act applies shall be aggregated and reckoned for the purposes of this Act, whether the service has been continuous or not, and whether his whole time has been devoted to the service or not.

"Sec. 5. The guardians in computing the amount of superannuation allowance to any officer or servant may, in consideration of peculiar professional qualifications, or of special circumstances, and with the consent of the Local Government Board, add a number of years not exceeding ten to the number of years which the officer or servant has actually served in the aggregate.

"Sec. 6. Where a person in receipt of a superannuation allowance under this Act is appointed to any office or employment by any authority to whom this Act applies, such allowance shall cease to be paid so long as he continues to hold such office or employment, if the salary or wages and emoluments thereof are equal to, or in excess of the amount of such allowance; if they are not, then only so much of such allowance shall be paid so long as he holds such office or employment as will make up the deficiency.

"Any such person on ceasing to hold such office or employment shall be entitled to revert to and to receive the full amount of his original superannuation allowance from the authority which granted it.

"Sec. 7. An officer or servant who is dismissed or resigns or otherwise ceases to hold office in consequence of any offence of a fraudulent character or of grave misconduct, shall forfeit all claim to any superannuation allowance under this Act in respect

of his previous service, provided that in the case of any such officer or servant the guardians may, if they see fit, return to him out of the common fund of the union a sum equal to the amount of all or part of his contributions under this Act.

“ Sec. 8. An officer or servant who has not become entitled to a superannuation allowance, and who loses his office or employment by reason of a reduction of staff, or of any alteration of areas or boundaries, or otherwise ceases to hold his office or employment by reason of bodily injury not occasioned by his own default, or of any other cause whatever other than his own misconduct or voluntary resignation, shall be entitled to receive, out of the common fund of the union, a sum equal to the amount of all his contributions to any such fund under this Act ; but if he claims under this section and subsequently obtains a fresh office or employment, he shall not be entitled to reckon his service before obtaining such fresh office or employment towards a superannuation allowance under this Act, unless upon obtaining such fresh office or employment he pays the amount so received to the common fund of the authority under whom he obtains such fresh office or employment.

“ In any such case of loss of office or employment as aforesaid, the guardians may also, if they see fit, with the sanction of the Local Government Board, grant to the officer or servant a gratuity, payable out of the common fund of the union, not exceeding twice the amount of his salary or wages and emoluments during the year ending on the quarter day which immediately precedes the day on which he ceases to hold his office or employment.

“ Provided that when such loss of office or employment occurs in a case in which the death, resignation, or insanity of one of the holders of a joint appointment vacates the office of the other, the officer or servant whose office or employment is so vacated, shall, unless he is reappointed by the guardians, and except where in the case of husband and wife the joint appointment is terminated owing to the misconduct of one of them, be entitled to receive during life, out of the common fund of the union, a superannuation allowance, according to the scale laid down in this Act, if such officer or servant has attained the age of fifty years, or has served for not less than twenty years.

“ Sec. 12. Subject to the provisions of this Act, every officer and servant in the service or employment of the guardians of a union shall contribute annually for the purposes of this Act a percentage amount of his salary or wages and emoluments according to the scale laid down by this Act, such amount to be from time to time deducted from the salary or wages payable to him and to be carried to and form part of the common fund of the union.

"Sec. 13. The percentage amounts to be deducted annually for the purposes of this Act shall be as follows, that is to say—

"In the case of officers and servants with less than five years' service at the passing of this Act, or appointed after the passing of this Act, two per cent. of the salary or wages and emoluments for each year :

"In the case of officers and servants with more than five and less than fifteen years' service at the passing of this Act, two and a half per cent. of the salary or wages and emoluments for each year :

"In the case of officers and servants with more than fifteen years' service at the passing of this Act, three per cent. of the salary or wages and emoluments for each year."

These sections seem to revive the abatement principle of 1859.

POOR LAW IN IRELAND.

28 Vic. c. 26 (1865) is a simple Act, very similar to the above.

"The Guardians . . . at their discretion may grant to any officer whose whole time has been devoted to the service of the union . . . an annual allowance . . . not exceeding . . . two-thirds of his then salary.

"No officer shall be entitled to such allowance on the ground of age who shall not have completed the full age of sixty years and shall not have served as a Union officer for twenty years at the least."

Medical officers of pauper lunatic asylums in Ireland are treated a little more leniently for the practical effect of 53 & 54 Vic. c. 31 is to substitute fifteen years' service for twenty [above] and fifty years of age for sixty [above].

MEDICAL OFFICERS OF PRISONS.

The pensions of these officers are governed by sec. 36 of 40 & 41 Vic. c. 21, known as The Prison Act, 1877, which runs—

"36. If at any time . . . it appears to the Treasury that any existing officer of a prison has been in the prison service for not less than twenty years and is not less than sixty years of age, or that any existing officer of a prison has become incapable from confirmed sickness, age, or infirmity, or injury received in actual execution of his duty, of executing his office in person . . . [and the Prison Commissioners recommend a grant] the Treasury may grant to such officer . . . an annuity . . . not exceeding two-thirds of his salary . . ."

By 49 Vic. c. 9 the term "Prison service" in sec. 36 was declared to include service in a military or in a naval prison.

PRISONS IN SCOTLAND.

Pensions and superannuations to prison medical officers in Scotland would appear to be somewhat precarious interests, for they appear to be governed by the two following sections of "40 & 41 Vic. c. 53. *An Act to amend the Law relating to Prisons in Scotland.* Aug. 14, 1877," viz., sec. 43, which runs—

"Sec. 43. *If at any time after the commencement of this Act it appears to the Treasury that any existing officer of an ordinary prison has been in the prison service for not less than twenty years, and is not less than sixty years of age, or that any existing officer of a prison has become incapable from confirmed sickness, age, or infirmity, or injury received in actual execution of his duty, of executing his office in person, and such sickness, age, infirmity, or injury is certified by a medical certificate, and there shall be a report of the Prison Commissioners testifying to his good conduct during his period of service under them, and recommending a grant to be made to him, the Treasury may grant to such officer, having regard to his length of prison service, an annuity, by way of superannuation allowance, not exceeding two-thirds of his salary and emoluments, or a gratuity not exceeding the amount of his salary and emoluments for one year.*

"*If any office in any ordinary prison to which this Act applies is abolished, or any officer is retired or removed, any existing officer of such prison who by reason of such abolition, retirement, or removal is deprived of any salary or emoluments, shall be dealt with in manner provided by the Superannuation Act, 1859, with respect to a person retiring or removed from the public service in consequence of the abolition of his office, or for the purpose of facilitating improvements in the organisation of the department to which he belongs.*

"*Any annuity by way of superannuation allowance or gratuity granted under this section shall be apportioned between the period of service before the commencement of this Act and the period of service after the commencement of this Act ; and so much of such annuity or allowance as is payable in respect of service before the commencement of this Act regard being had to the amount of salary then paid, but without taking into account any number of years added to the officer's service on account of abolition of office, or for facilitating the organisation of the department, shall be paid, in such proportions as the Secretary of State shall determine, by . . .*" different authorities.

And sec. 60, which runs—

"*Sec. 60. At any time after the passing of this Act a prison authority shall have a discretionary power to grant to any clerk or*

treasurer, or other officer of such authority in office at the passing of this Act, such superannuation allowance or other compensation to take effect on his ceasing to hold office, as they shall deem fit, and may declare the proportions in which such allowance or compensation shall be payable by the commissioners of supply of the county and the magistrates of the burgh or burghs at the passing of this Act within the jurisdiction of such prison authority: Provided always, that any such grant made by such prison authority may be reduced or rescinded by such commissioners of supply or magistrates as the case may be, in so far as payable by them, if such commissioners of supply or magistrates shall consider the same excessive or improper.

"Any sums payable under this section shall be a charge against the county general assessment of a county, or any municipal, or police, or other assessment of a burgh, as the case may be."

In neither of which does there seem to be a recognised right to a pension.

PRISONS IN IRELAND.

Of "40 & 41 Vic. c. 49. *An Act to amend the Law relating to Prisons in Ireland.* Aug. 14, 1877."

Sec. 32, paragraph 1, is practically a verbatim repetition of sec. 36 (above, p. 364), and the second paragraph of the section brings those who are retired by reason of the abolition of their offices or by compulsion under the Superannuation Act, 1859 (above, p. 350).

Sec. 33 runs—

"33. The provisions of the Prison Officers Superannuation (Ireland) Act, 1873, which relate to medical officers of prisons, shall, in the case of any medical officer who shall be also surgeon to any county infirmary, and who shall have given his attendance and professional assistance, whether with or without remuneration, to the prisoners or others in any prison up to the first day of April one thousand eight hundred and seventy-eight, and whose further attendance or assistance at such prison shall at any time thereafter cease to be required, apply to such medical officer on the occasion of his retiring from the office of surgeon of the county infirmary, as fully as the same would have applied if such medical officer had continued to give his attendance and professional assistance at such prison up to the time of his retirement from the office of surgeon of the county infirmary.

"Sec. 34. In case any person enjoying any superannuation

allowance or compensation upon the abolition of office under the authority of this Act shall be appointed to fill any office remunerated wholly or partly out of local rates, or any office in any public department, every such allowance or compensation shall cease to be paid for any period subsequent to such appointment, if the annual amount of the profits of the office to which he shall be appointed shall be equal to those of the office formerly held by him, and in case they shall not be equal to those of his former office, then no more of such superannuation allowance or compensation shall be paid to him than with the salary of his new appointment shall be equal to that of his former office."

The provisions above referred to are those of "36 & 37 Vic. c. 51. *An Act to amend the Law relating to the Superannuation of Prisons Officers in Ireland.* July 28, 1873," of which the essential section is sec. 4, which runs—

"Sec. 4. If any officer of any prison has been an officer of such prison for not less than twenty years, and is not less than sixty years of age, or becomes incapable from confirmed sickness, age, or infirmity, or injury received in actual execution of his duty, of executing his office in person, and such sickness, age, infirmity, or injury is certified by a medical certificate, and there shall be a report of the 'Board of Superintendence' testifying to his good conduct during his period of service, and recommending a grant to be made to him, the grand jury of the county in which such prison is situate may, upon the recommendation of the Inspectors General of Prisons, or one of them, at the assizes, or, as regards the county and city of Dublin, at the presenting term next after the date of such report, grant to such officer, having regard to his length of service, an annuity by way of superannuation allowance, not exceeding two thirds of his salary and emoluments, or a gratuity not exceeding the amount of his salary and emoluments for one year, and any such annuity or gratuity shall from time to time, without application to presentment sessions, and in the case of the county and city of Dublin at the presenting term, be presented by the grand jury, and shall be levied in like manner in every respect as the salary of such officer was previously levied; provided, that the salary and emoluments of any surgeon of any infirmary to whom any superannuation allowance or gratuity is granted under this Act, shall, for the purpose of ascertaining such superannuation allowance or gratuity, be deemed to be the salary and emoluments paid to such surgeon as surgeon of such county infirmary; provided also, that no superannuation allowance or gratuity under this Act shall be granted to any surgeon of any county infirmary so long as he continues to be the surgeon of such county infirmary."

METROPOLITAN POLICE SURGEONS.

The ordinary local police surgeons attached to various divisions are not, so far as I can ascertain, entitled to any pension or retiring allowance.

By 38 & 39 Vic. c. 28 the chief surgeon to the Metropolitan police office is brought within the conditions of 22 Vic. c. 26 (above, p. 350).

COLONIAL MEDICAL OFFICERS.

On my writing to the Colonial Office for information on this subject I received a very courteous reply, of which the following portion is of interest—

The precise conditions which govern the grant of pensions to medical officers in His Majesty's oversea dominions vary from colony to colony—and copies of the pension laws and regulations which you would have to consult are not available for distribution, though they may be inspected either by yourself, or by anyone whom you may depute, in the Colonial Office library on application to the librarian, any week day except Saturday between eleven a.m. and five p.m.

I am, however, to transmit to you the accompanying pamphlets which will be some guide to the information you require in the case of the colonies and protectorates in East and West Africa.

From the pamphlets in question I gather that pensions, &c., vary somewhat according to whether the colony or protectorate be regarded as possessing a "healthy" or "unhealthy" climate.

"39 & 40 Vic. c. 53. *An Act of Parliament to make further provision respecting the superannuation allowance to be granted to Civil Servants serving in unhealthy climates.* Aug. 11, 1876, states that, *The Treasury may from time to time by order declare that any country or place therein named shall be deemed, and the same shall thereupon be deemed for the purposes of the Superannuation Act, 1859 and this Act, to be an unhealthy place.*"

The rules in my possession issued under the above authorisation are I find, somewhat complicated, and, I fear, do not lend themselves readily to analysis; I notice that in unhealthy places fifty years of age may be read as fifty-five, and I find also, that notwithstanding the Act of 1909 pensions are still reckoned in sixtieths instead of eightieths.

CHAPTER XVI

ACTS RELATING TO THE POOR LAW AND MEDICAL ATTENDANCE ON THE POOR

THE history of the Poor Law in general is quite lost in the mists of antiquity, for scattered fragments of it are unearthed whenever discoveries of any extent are made on the site of ancient buried cities. In England its history can be traced back pretty nearly as far as any records that remain decipherable. The earliest mediæval record I can find is the following passage, taken from the Report of the Royal Commission issued in 1909.¹

According to a passage quoted from Horne's "Mirror," in Cokes Institutes, Part III., chapter 40, folio 103, it was ordained by Kings before the Conquest that the poor should be sustained by parsons rectors and parishioners, "so that no one should die from lack of sustenance."

All the earlier legislation has, however, but little reference to or interest for medical men for it is almost entirely concerned with the control of begging, and other methods of sustaining a bare existence, by the poor, and indeed it was not, so far as I can ascertain, till 1782 that workhouses² of approximately the modern type were founded by 22 Geo. 3, c. 83 (1782).

Modern legislation on the subject may be said to commence in 1834, in which year "4 & 5 Will. 4, c. 76. *An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales.* Aug. 14, 1834," was passed, as the result of the Report of a Royal Commission, which was appointed in 1832 to inquire into the whole matter. Medical relief is certainly mentioned in this Act, sec. 54, "where sudden and dangerous illness requires it," but apparently for the first time in any Act.³

¹ Report of the Royal Commission on the Poor Laws and Relief of Distress, 3 vols. (I. and II., the Majority Report, price 2s. 3d.; III., the Minority Report, price 1s. 9d.). Eyre and Spottiswoode.

² The name itself suggests the scope and object of these institutions as originally framed; sick wards and infirmaries are a much later development.

³ The Report of 1909 sums up the matter as follows: "Previously to the passing of the Poor Law Amendment Act, there existed no statute expressly authorising the parish authorities to provide medical relief for

From this date, 1834, up to the present year, 1912, it still remains difficult to say that Poor Law legislation as represented by Acts of Parliament (The Insurance Act of 1911 is the chief, if not the only, exception) has concerned itself *directly* with medical treatment and medical attention or relief for the poor, and consequently I find it impossible to write this chapter on lines which are at all parallel with other chapters, the medical references in Acts of Parliament are too scrappy and vague to form a connected whole ; for what follows I am indebted almost entirely to the 1909 Report.

The present position, as regards duties, emoluments and responsibilities of medical men working under the Poor Law has been determined by some three factors—

(a) Various Acts of Parliament (many of which have been dealt with in other chapters, *e.g.*, that on the work of Medical Officers of Health, that on school medical officers, that on lunacy, &c.) which have indirectly affected the position through various channels—hygiene, finance, &c.¹

(b) Circulars and Orders issued at various times by Poor Law Commissioners under general powers possessed by them (*vide* p. 373).

(c) Circulars and Orders issued at various times by the Local Government Board under very wide and general powers of control possessed by that Board (*vide* p. 374).

All of these factors have been influenced by the awakening force of public opinion urging the nation towards a better care for the health, and reasonable conditions of existence, of all its members.

The following is a list of Acts of Parliament touched upon or referred to in the 1909 Report—

11 Henry 7, c. 2	..)	Restriction of begging.
19 Henry 7, c. 12	..)	
22 Henry 8, c. 12	..)	

the poor. In the statute of Elizabeth no allusion to any such relief is to be found, and in the subsequent Acts of Parliament relating to the poor the Legislature has been entirely silent on this subject. In the absence of any positive provisions, medical aid has, nevertheless, been supplied to the poor, and, as might have been expected from the uncontrolled discretion of parish officers of 15,000 districts, the arrangements for the purpose have been almost infinitely various, both as to the mode of selecting the medical attendants and the amount of their remuneration. Almost all, however, had the same defect—the absence of all effective control over the medical officer, as well as respects his due attendance on the sick, as with regard to the amount of his charges. . . .”

¹ The 1909 Report also instances the Medical Relief Disqualification Removal Act, the Unemployed Workmen Act, the Elementary Education (Provision of Meals) Act, the Education (Administrative Provisions) Act, the Old Age Pensions Act.

27 Henry 8, c. 25	..	Sustenance by localities.
1 Edw. 6, c. 3	..	Contributions invited.
5 & 6 Edw. 6, c. 2	..	Assessment Acts.
5 Eliz. c. 3	..	
14 Eliz. c. 5	..	Aged, decayed, and impotent taken care of.
14 Eliz. c. 3	..	Work materials provided.
39 Eliz. c. 3 (1597)	..	Comprehensive Poor Law Act.
43 Eliz. c. 2 (1601)	..	
1 Chas. 1, c. 4	..	Renewal of old Acts.
3 & 4 Will. & Mary, c. 11	..	Registration of Poor.
8 & 9 Will 3, c. 30	..	Apprentices from Poor Law.
9 Geo. 1, c. 7 (1722)	..	Primitive workhouses and tests.
22 Geo. 3, c. 83 (1782)	..	Better Workhouses (Denison's Act).
36 Geo. 3, c. 49 (1796)	..	Magistrates and Poor Law.
36 Geo. 3, c. 49 (1796)	..	Reversal of 1722 Act.
59 Geo. 3, c. 12 (1809)	..	Assistant overseers appointed and select vestries authorised.
4 & 5 Will 4, c. 76 (1834)	..	Comprehensive Poor Law Amendment Act.
5 & 6 Will. 4, c. 69	..	The Union and Parish Property Act, 1835.
1 & 2 Vic. c. 56	..	Refers to Ireland.
5 & 6 Vic. c. 18	..	Parish Property and Parish Debts Act, 1842.
5 & 6 Vic. c. 57	..	Poor Law Amendment Act, 1842.
7 & 8 Vic. c. 101	..	Poor Law Amendment Act, 1844; Poor Law Schools.
8 & 9 Vic. c. 83	..	Poor Law (Scotland) Act, 1845.
9 & 10 Vic. c. 66	..	Poor Removal Act, 1846.
10 Vic. c. 31	..	Poor Law (Ireland) Act.
10 & 11 Vic. c. 109	..	Poor Law Board Act, 1847.
11 & 12 Vic. c. 31	..	Poor Law Procedure Act, 1848.
11 & 12 Vic. c. 91	..	Poor Law Audit Act.
11 & 12 Vic. c. 110	..	Poor Law Amendment Act, 1848.
12 & 13 Vic. c. 103	..	Poor Law Amendment Act, 1849.
13 & 14 Vic. c. 101	..	Poor Law Amendment Act, 1850.
14 & 15 Vic. c. 105	..	Poor Law Amendment Act, 1851.
24 & 25 Vic. c. 55	..	Union Chargeability Act, 1861.
27 & 28 Vic. c. 116	..	Houseless Poor Act.
28 & 29 Vic. c. 79	..	Union Chargeability Act, 1865.
29 & 30 Vic. c. 113	..	Poor Law Amendment Act, 1866.
30 & 31 Vic. c. 6	..	Metropolitan Poor Act.
30 & 31 Vic. c. 106	..	Poor Law Board made permanent.
31 & 32 Vic. c. 122	..	Poor Law Amendment Act, 1868.
32 & 33 Vic. c. 63	..	Boarding-out authorised.
33 & 34 Vic. c. 18	..	Extension of Metropolitan Poor Act.
34 & 35 Vic. c. 70	..	Transfer of powers to Local Government Board.
34 & 35 Vic. c. 108	..	Elementary Education Act.
36 & 37 Vic. c. 86	..	
39 & 40 Vic. c. 61	..	Financial and Education.
42 & 43 Vic. c. 6	..	Local Government Board appoints auditors.
42 & 43 Vic. c. 54	..	Powers of Guardians.
48 & 49 Vic. c. 46	..	Medical Relief Disqualification Removal Act.
50 & 51 Vic. c. 72	..	Local Authorities (Expenses) Act, 1887.
51 & 52 Vic. c. 41	..	Local Government Act, 1888.

52 & 53 Vic. c. 56	..	Financial.
56 & 57 Vic. c. 73	..	Local Government Act, 1894.
59 & 60 Vic. c. 16	..	Agricultural Rates Act.
59 & 60 Vic. c. 50	..	Superannuation Act.
62 & 63 Vic. c. 14	..	London Government Act, 1899.
62 & 63 Vic. c. 37		
6 Edw. 7, c. 57 ..	..	Education (Provision of Meals) Act, 1906.
8 Edw. 7, c. 40 ..	..	Old Age Pensions Act, 1908.
8 Edw. 7, c. 67 ..	..	Childrens Act, 1908.

So far as these Acts touch the Poor Law, very few of them have a direct bearing on the medical side of the matter, and I do not deal with any of them here.

PRESENT EXECUTIVE OF POOR LAW.

The Local Government Board (responsible only to Parliament) is the department of Government which manages and controls every aspect of Poor Law through various officers, lay and medical, and is termed "the Central Authority for Poor Law purposes"; there is also a L. G. B. for Scotland and one for Ireland with similar functions.

The medical officers of the L. G. B. for Poor Law purposes in England and Wales consist of two inspectors, a senior and a junior. So far as I can ascertain from the 1909 Report, it is through the instrumentality of these two men that all medical matters of whatever nature are officially brought to the notice of the board.

At the other end of the scale there are boards of guardians, relieving officers, and medical officers (district and institutional) for each Poor Law union¹; the boards of guardians form essentially the local authority as opposed to the L. G. B., the central authority.

The ultimate medical unit is the district medical officer or Poor Law doctor, commonly known to the public as the "parish doctor." On him devolves the duty of seeing Poor Law patients either (theoretically) on receipt of an order from a relieving officer, or on his own responsibility from motives of humanity (in practice he acts upon both stimuli); he either assumes complete charge of the case, or causes the patient to be removed to an institution, it may be to a hospital, but to simplify this account we assume it is to a workhouse infirmary.

These district medical officers are also in a large number of

¹ A union is not necessarily coterminous with one medical man's Poor Law practice; there are commonly two or three or even more medical officers to one union.

cases (over 300—1909 Report) the visiting medical officers to the workhouse where there is no resident medical superintendent.

The medical superintendent of the infirmary is the institutional unit, and he is, either in his own person, or with a certain number of assistant medical officers, responsible for the "in-patient" treatment of all pauper patients referred to him from outside, or who are discovered amongst the ordinary inmates of the workhouses.

Of district medical officers there were in 1906 3,718,¹ and of institutional (chief and assistant) 1,010 (*vide* 1909 Report); the appointments are sufficiently numerous to enter into a medical man's calculations in practice. Of chief medical residents or superintendents there are some 250 to 300, and of assistant residents approximately the same number.

EMOLUMENTS.

"In the great majority of unions the District Medical Officers still have to find their own drugs and medicines, and any dressings and bandages that may be required, and they are paid fixed stipends which vary from as little as £10 or £15 a year up to as much as £300 or £400—a very usual figure being £100—together with additional fees for midwifery cases and operations." (Minority Report, 1909, p. 172.)

The resident medical appointments vary for the principal officer from £200 with all found up to as much as £600 or £700 with a house, &c., and for the assistants from £70 or £80 to £150 to £200.

Such is a brief sketch of the Poor Law personnel so far as medical men are concerned.

Of actual circulars and Orders issued by Poor Law Commissioners, I possess the following:—

1. Dated 1842, issued by the Poor Law Commissioners, the only article of interest of which is No. 6, which states that no medical district shall be greater than 15,000 acres or contain more than 15,000 inhabitants, conditions which are now but imperfectly fulfilled.

2. The famous Order issued by the Poor Law Commissioners in 1847, famous because so many of its general articles are still valid, but the medical ones have undergone revision (*vide* below).

3. The Accounts Order of 1867, issued by the Poor Law Board, still, I believe, valid but of no special medical interest.

¹ The Minority Report say 3,713

4. Extracts from General Orders, relating to the duties of district medical officers, dated 1896, revised in 1911 and now obsolete.

5. Known as the Boarding-out Order, issued by the L. G. B. in 1911, of no medical interest, except that a medical certificate of the fitness of a child to be boarded out has to be obtained.

6 and 7. Two Orders, dated 1896 and 1911, referring to workhouse medical officers and district medical officers which I reproduce in full, omitting only in the second one those sections which are mere repetition.

EXTRACTS FROM THE GENERAL ORDERS OF THE
POOR LAW COMMISSIONERS, THE POOR LAW
BOARD, AND THE LOCAL GOVERNMENT BOARD,
RELATING TO THE DUTIES OF WORKHOUSE MEDICAL
OFFICERS.

A.—DUTIES OF OFFICERS GENERALLY, INCLUDING
WORKHOUSE MEDICAL OFFICERS.

General Con-
solidated Order,
21th July, 1847.
Art. 154.

The officers so appointed to or holding any of the said offices, as well as all persons temporarily discharging the duties of such offices, shall respectively perform such duties as may be required of them by the Rules and Regulations of the Commissioners, [Poor Law Board, or Local Government Board] in force at the time, together with all such other duties, conformable with the nature of their respective offices, as the Guardians may lawfully require them to perform.

Personal Discharge of Duties.

Art. 199.

Every Medical Officer shall be bound to visit and attend personally, as far as may be practicable, the poor persons intrusted to his care, and shall be responsible for the attendance on them.

Art. 200.

Every Medical Officer shall, as soon as may be after his appointment, name to the Guardians some legally qualified medical practitioner to whom application for medicines or attendance may be made, in the case of his absence from home, or other hindrance to his personal attendance, and who will supply the same at the cost of such Medical Officer, and the name and residence of every Medical Practitioner so named shall be forwarded by the Clerk to each Relieving Officer, and to the Overseers of every Parish in the District of such Medical Officer.

B.—DUTIES OF MEDICAL OFFICERS GENERALLY,
INCLUDING WORKHOUSE MEDICAL OFFICERS.

Art. 205.

The following shall be the duties of every Medical Officer appointed by the Guardians, whether he be the Medical Officer for a Workhouse or for a District:—

No. 1. To give to the Guardians, when required

any reasonable information respecting the case of any pauper who is or has been under his care ; to make any such written Report relative to any sickness prevalent among the paupers under his care, as the Guardians or the Commissioners [Local Government Board] may require of him ; and to attend any meeting of the Board of Guardians when requested by them to do so.

No. 2. To give a certificate respecting children whom it is proposed to apprentice, in conformity with Articles 59 * * *.

No. 3. To give a certificate under his hand in every case to the Guardians, or the Relieving Officer, or the pauper on whom he is attending, of the sickness of such pauper or other cause of his attendance, when required to do so.

No. 4. In keeping the books prescribed by this Order, to employ, so far as is practicable, the terms used or recommended in the regulations and statistical nosology issued by the Registrar General ; and also to show when the visit or attendance made or given to any pauper was made or given by any person employed by himself.

DUTIES OF A WORKHOUSE MEDICAL OFFICER.

General Duties.

The following shall be the duties of the Medical Officer for the Workhouse :— Art. 207.

No. 1. To attend at the Workhouse at the periods fixed by the Guardians, and also when sent for by the Master or Matron.

No. 2. To attend duly and punctually upon all poor persons in the Workhouse requiring medical attendance, and, according to his agreement, to supply the requisite medicines to such persons.

No. 3. To examine the state of the paupers on their admission into the Workhouse, and to give the requisite directions to the Master according to Articles 91 and 92.

No. 4. To give directions and make suggestions as to the diet, classification, and treatment of the sick paupers, and paupers of unsound mind, and to report to the Guardians any pauper of unsound mind in the Workhouse whom he may deem to be dangerous, or fit to be sent to a Lunatic Asylum.

No. 5. To give all necessary instructions as to the diet or treatment of children and women suckling children, and to vaccinate such of the children as may require vaccination.

No. 6. To report in writing to the Guardians any defect in the diet, drainage, ventilation, warmth, or other arrangements of the Workhouse, or any excess in the number of any class of inmates, which he may deem to be detrimental to the health of the inmates.

No. 7. To report in writing to the Guardians any

defect which he may observe in the arrangements of the Infirmary, and in the performance of their duties by the nurses of the sick.

No. 8. To make a return to the Guardians, at each ordinary meeting, in a book prepared according to the Form (Q.)¹ and to insert therein the date of every attendance, in conformity with Article 205, and the other particulars required by such Form to be inserted by the Medical Officer, and to enter in such return the death of every pauper who shall die in the Workhouse, together with the apparent cause thereof.

No. 9. To enter in the commencement of such book, according to the Form marked (R.),¹ the proper dietary for the sick paupers in the house in so many different scales as he shall deem expedient.

Admission of Paupers.

Art. 91. As soon as the pauper is admitted, he shall be placed in some room to be appropriated to the reception of paupers on admission, and shall then be examined by the Medical Officer.

Art. 92. If the Medical Officer upon such examination pronounce the pauper to be labouring under any disease of body or mind, the pauper shall be placed in the sick ward, or in such other ward as the Medical Officer shall direct.

Art. 93. If the Medical Officer pronounce the pauper to be free from any such disease, the pauper shall be placed in the part of the Workhouse assigned to the class to which he may belong.

Diet of Paupers.

Art. 107. The paupers shall be dieted with the food and in the manner set forth in the Dietary Table which may be prescribed for the use of the Workhouse, and no pauper shall have or consume any liquor, or any food or provision other than is allowed in the said Dietary Table, except on Christmas Day, or by the direction in writing of the Medical Officer, as provided in Article 108.

Provided,
Art. 108. First.—That the Medical Officer may direct in writing such diet for any individual pauper as he may deem necessary, and the Master shall obey such direction until the next ordinary meeting of the Guardians, when he shall report the same in writing to the Guardians.

Secondly.—That if the Medical Officer at any time certify that he deems a temporary change in the diet essential to the health of the paupers in the

¹ These forms are not inserted here; they are included in the official documents given to each medical officer who requires to sign them.

Workhouse, or of any class or classes thereof, the Guardians shall cause a copy of such certificate to be entered on the Minutes of their proceedings, and may forthwith order, by a resolution, the said diet to be temporarily changed, according to the recommendation of the Medical Officer, and shall forthwith transmit a copy of such certificate and resolution to the Commissioners [Local Government Board].

Thirdly.—That the Medical Officer shall be consulted by the Matron as to the nature of the food of the infants, and of their mothers when suckling, and the time at which such infants should be weaned.

Fourthly.—That the Guardians may, without any direction of the Medical Officer, make such allowance of food as may be necessary to paupers employed as nurses or in the household work; but they shall not allow to such paupers any fermented or spirituous liquors on account of the performance of such work, unless in pursuance of a written recommendation of the Medical Officer.

Punishment of Paupers.

No pauper who may have been under medical care, or who may have been entered in the medical weekly return as sick or infirm, at any time in the course of the seven days next preceding the punishment, or who may be reasonably supposed to be under twelve, or above sixty years of age, or who may be pronounced by the Medical Officer to be pregnant, or who may be suckling a child, shall be punished by alteration of diet, or by confinement, unless the Medical Officer shall have previously certified in writing that no injury to the health of such pauper is reasonably to be apprehended from the proposed punishment; and any modification diminishing such punishment which the Medical Officer may suggest, shall be adopted by the Master.

Art. 134.

Reports and Bed Cards.

He shall keep a book, to be termed "*The Workhouse Medical Officer's Report Book*" (to be supplied by the Guardians), in which he shall enter in writing, duly and punctually, and under the correct dates, every Report required by the said Orders to be made by him to the Board of Guardians as to the defects in the diet, drainage, ventilation, warmth, and other arrangements of the Workhouse; as to any excess in the number of any class of inmates which he may deem to be detrimental to health; as to every defect which he may observe in the arrangements of the Infirmary or Sick Wards, and in the performance of their duties by the nurses of the sick; and, further, a Report of any other matter which, in the discharge

General Order,
4th April, 1863.
Art. 1.

of the duties of his office he shall consider to require the attention of the Guardians: and also such recommendations relating to any of the matters aforesaid as he may think it right to submit to the said Guardians.

Art. 2.

He shall cause this book to be delivered to the Clerk to the Guardians in sufficient time to allow it to be laid before the Board of Guardians at the ordinary meeting held at or next following the date of the Report, and to be produced to the Visiting Committee, and to the Inspectors of the [Local Government] Board, when they shall require to see it.

Art. 3.

He shall enter on a Card, to be affixed at or near the head of the bed of every patient upon whom he shall be in attendance all medical or other extras which he shall deem necessary to be supplied.

Art. 4.

He shall report in writing to the [Local Government] Board the case of every sudden and every accidental death which may occur in the Workhouse within twenty-four hours after he shall receive information of the same, and the cause of the death so far as he is able to explain it.

General Order,
24th August,
1869.

The Medical Officer for the Workhouse shall, in addition to the reports required to be made from time to time under Article No. 1 [of the Order dated 4th April, 1868], report specially to the Guardians on or about the First day of January and the First day of July in every year upon the several matters set forth in the Statement contained in the said * * * Order, and such Reports shall be entered in or preserved with the *Medical Officer's Report Book*.

Casual Paupers.

General Order,
18th December,
1852.

Art. 10.
Proviso 2.

Art. 13.

If a Casual Pauper be sick or infirm, the Medical Officer of the Workhouse or Casual Ward shall prescribe the Dietary for such Pauper.

In the event of any Casual Pauper being ill, the Master of the Workhouse or the Superintendent of the Casual Ward shall, as soon as practicable, obtain the attendance of the Medical Officer, who shall give directions as to the treatment of such Pauper, and if, in the opinion of the Medical Officer, the Pauper cannot be properly treated in the Casual Ward, he shall be transferred to a Sick Ward of the Workhouse and be deemed to be an ordinary inmate thereof.

Notification of Cases of Infectious Disease.

General Order,
12th February,
1879.
Art. 111.

Every Medical Officer appointed by the Guardians after the Twenty-eighth day of February, One thousand eight hundred and seventy-nine, whether for a District or a Workhouse, shall immediately upon the occurrence of any case of contagious, infectious, or epidemic disease of a dangerous character amongst the pauper patients under his care, give notice thereof to the Clerk of the Sanitary Authority of the Urban or Rural Sanitary District, as the case may be, within which he

acts as Medical Officer, or to the Medical Officer of Health of such Authority.

He shall also furnish from time to time to the Medical Officer of Health of such Sanitary Authority such information with respect to the cases of sickness and the deaths amongst the pauper patients under his care as the Local Government Board may direct, and whenever the Local Government Board shall make regulations for all or any of the purposes specified in Section 134 of the Public Health Act, 1875, he shall observe such regulations as far as the same relate to or concern his office.

Apprenticeship of Pauper Children.

No child, under the age of nine years, and no child (other than a deaf and dumb child) who cannot read and write his own name, shall be bound apprentice by the Guardians.

General Consolidated Order,
24th July, 1847.
Art. 52.

If the child whom it is proposed to bind apprentice, be in the Workhouse, and under the age of fourteen years, the Guardians shall require a certificate in writing from the Medical Officer of the Workhouse as to the fitness in regard to bodily health and strength of such child to be bound apprentice to the proposed trade, and shall also ascertain from the Master of the Workhouse the capacity of the child for such binding in other respects.

Art. 59.

*Boarding of Children in Unions Order, 1889.**

No. 4. No child shall be boarded in a home without a certificate, in the Form No. 2 in the Schedule A. to this Order (*see* page 12) signed by one of the Medical Officers of the Union or Separate Parish, stating the particulars of the child's health.

General Order,
28th May, 1889.
Art. I.

* This Order is not in force in the Metropolis.

The Boarding-out Order, 1889.

No. 6. No child shall be boarded-out without a certificate, in the Form No. 2 in the Schedule to this Order, signed by one of the Medical Officers of the Union or Separate Parish from which such child is sent, stating the particulars of the child's health, such certificate to be forwarded by the Guardians to the Boarding-out Committee.

Art. VI.

Special Remuneration in certain Cases.

In cases in which any Medical Officer, either for the Workhouse or a District, shall be called on by order of a person legally qualified to make such order, to attend any woman in or immediately after child-birth, or shall, under circumstances of difficulty or danger, without any order, visit any such woman actually receiving relief, or whom the Guardians may subsequently decide to have been in a destitute condition,

General Consolidated Order,
24th July, 1847.
Art. 182.

such Medical Officer shall be paid for his attendance and medicines by a sum of not less than ten shillings, nor more than twenty shillings, according as the Guardians may agree with such Officer.

Account of Extra Fees or Emoluments.

General Order
for Accounts,
14th Jan., 1867.
Art. 37.

Where any Officer shall be entitled to be paid any extra fees or emoluments he shall make out his account thereof quarterly according to the above-mentioned days [Lady Day, Midsummer Day, Michaelmas Day, and Christmas Day], and lay the same before the Guardians on those days, and his claim shall be deemed to accrue at the expiration of one calendar month next following such quarter day, provided that the Guardians may, if they think fit, pay the same before the expiration of such month.

EXTRACTS FROM THE GENERAL ORDERS OF THE POOR LAW COMMISSIONERS, THE POOR LAW BOARD, AND THE LOCAL GOVERNMENT BOARD, RELATING TO THE DUTIES OF DISTRICT MEDICAL OFFICERS OUTSIDE THE METROPOLIS.

DUTIES OF OFFICERS GENERALLY, INCLUDING DISTRICT MEDICAL OFFICERS.

Vide A on p. 374, above.

DUTIES OF MEDICAL OFFICERS GENERALLY, INCLUDING DISTRICT MEDICAL OFFICERS.

Vide B on p. 374, above.

DUTIES OF A DISTRICT MEDICAL OFFICER.

General Duties.

The following shall be the duties of a District Medical Officer :—

Art. 206.

No. 1. To attend duly and punctually upon all poor persons requiring medical attendance within the District of the Union assigned to him, and according to his agreement to supply the requisite medicines to such persons, whenever he may be lawfully required to furnish such attendance or medicines by a written or printed order of the Guardians, or of a Relieving Officer of the Union, or of an Overseer.

No. 2. On the exhibition to him of a ticket, according to Article 76 (*see page 4*), and on application made on behalf of the party to whom such ticket was given, to afford such medical attendance and medicines as he would be bound to supply if he had received in each case an order from the Guardians to afford such attendance and medicines.

No. 3. To inform the Relieving Officer of any poor person whom he may attend without an order.

No. 4. To make a return to the Guardians at each ordinary meeting, in a book prepared according to the Form marked (P.) and to insert therein the date of every attendance, and the other particulars required by such Form, in conformity with Article 205, No. 4 :—

Provided, however, that the Medical Officer may, with the consent of the Guardians, but not otherwise, make the entries which he is directed to make in such book on detached sheets of paper, according to the same Form, and cause the same to be laid before the Guardians at every ordinary meeting, instead of such book; and the Guardians shall, in that case, cause such sheets to be bound up at the end of the year.

Inspection of District Medical Relief Books.

The Clerk or Medical Officer in possession of the District Medical Relief Books shall, at the end of every half year, allow each of the Relieving Officers to inspect such books; and each of the Relieving Officers shall forthwith inspect the names in such books, and shall write his initials in red ink against the name of every pauper who shall not have received any other than medical relief during the half year then last closed.

General Order
for Accounts,
14th Jan., 1867.
Art. 29.

Notification of Cases of Infectious Disease.

Vide same section in No. 6, p. 378.

General Order,
12th February,
1879.
Art. III.

Notification of Cases of Pulmonary Tuberculosis.

A District Medical Officer, within the period of forty-eight hours after his first recognition of the symptoms of Pulmonary Tuberculosis in the case of a poor person upon whom he is in medical attendance according to his agreement with a Board of Guardians, shall, in relation to the case, enter in a printed copy of Form B the particulars therein required to be set forth in the notification, shall sign the notification, and shall address and, after prepaying the postage, shall post the notification to the Medical Officer of Health for the area in which the residence of the poor person is situate.

General Order,
18th December,
1908.
Art. V.

(For provisions as to remuneration, *see* Article VIII. of the Order.)

Mode of obtaining Medical Relief by Permanent Paupers.

The Guardians shall, once at least in every year, cause to be prepared by the Clerk or Relieving Officers a list of all such aged and infirm persons, and persons permanently sick or disabled as may be actually receiving relief from such Guardians, and residing within the district of each Medical Officer of the Union,

General Con-
solidated Order,
24th July, 1847.
Art. 75.

and shall from time to time furnish to each District Medical Officer a copy of the list aforesaid.

Art. 76.

Every person whose name is inserted in such list shall receive a ticket in the Form (L.), and shall be entitled on the exhibition of such ticket to the Medical Officer of his district to obtain such advice, attendance, and medicines as his case may require, in the same manner as if he had received an order from the Guardians, and such ticket shall remain in force for the time specified therein, unless such person shall cease to be in the receipt of relief before the expiration of such time.

Boarding-out of Children within the Union.

General Order,
31st December,
1909.
Art. IX.

No. 6. A child shall not be boarded-out without a certificate, which shall be in the Form No. 1 in the Schedule to this Order, shall be signed by one of the Medical Officers of the Poor Law Union in which the child resides, and shall state the particulars of the child's health.

No. 7. Before receiving a child to be boarded-out with him, the foster-parent shall sign * * * an undertaking * * * which shall, in addition to any other matter agreed upon, contain an engagement on the part of the foster-parent that, * * * in case of the child's illness, he will forthwith report the illness to the Guardians and to the Boarding-out Committee; he will at all times permit the child to be visited and the home to be inspected by the Medical Officer of the District, by any of Our Inspectors, by a member of the Boarding-out Committee, or by any person specially appointed for that purpose by the Guardians or by Us.

Art. X.—The Medical Officer of the District in which a child boarded-out in pursuance of this Order is resident shall visit the child once in each quarter, and shall after each visit make a Report to the Guardians in the Form No. 5 in the Schedule to this Order, and for each such visit duly reported the Medical Officer shall be paid by the Guardians a fee of Two Shillings and Sixpence.

Boarding-out of Children beyond the Limits of the Union.

General Order,
5th December,
1904.
Art. VI.

No. 8. A child shall not be boarded-out without a certificate, which shall be in the Form No. 5 in the Schedule to this Order, shall be signed by one of the Medical Officers of the Poor Law Union from which the child is sent, shall state the particulars of the child's health, and shall be forwarded by the Guardians to the Boarding-out Committee.

Account of Extra Fees or Emoluments.

Vide similar heading above p. 380.

Inasmuch as it seems very likely that the Insurance Act of 1911 will lead on to some direct changes in the Poor Law by legislation, I deem it well to leave these Orders without further comment, and also without the scale of extra fees, which scale requires to be very much revised and altered to suit modern surgical requirements. I intend this work to represent so far as I can, the law as it is and not the law as it may be hoped it will, and ought to, be.

DISPENSARIES IN IRELAND.

The system of Poor Law dispensary work in Ireland is based upon "14 & 15 Vic. c. 68. *An Act to provide for the better Distribution, Support, and Management of Medical Charities in Ireland* . . . Aug. 7, 1851."

I am too unfamiliar with the working of this Act to attempt to criticise it, but I insert the reference together with the following list of Acts bearing on the same subject.

10 & 11 Vic. c. 32.	24 & 25 Vic. c. 71.
12 & 13 Vic. c. 59.	29 & 30 Vic. c. 40.
13 & 14 Vic. c. 31.	38 & 39 Vic. c. 82.
15 & 16 Vic. c. 34.	40 & 41 Vic. c. 27.
23 & 24 Vic. c. 19.	42 & 43 Vic. c. 25.

CHAPTER XVII

MISCELLANEOUS ACTS OF VARYING INTEREST.

(I.) EXPIRING LAWS CONTINUANCE ACT.

“ 1 & 2 Geo. 5, c. 22. *An Act to continue various Expiring Laws.* Aug. 18, 1911.”

This is a means by which Parliament can keep alive Acts and amending Acts which, as originally passed, had only a temporary life.

In the schedule to the Act are a large number (39) of Acts of which the following have been noticed in the preceding pages:—

The Employers Liability Act, 43 & 44 Vic. c. 42, and its amending Act, 6 Edw. 7, c. 58, s. 14.

The Vaccination Act, 1898, 61 & 62 Vic. c. 49, and its amending Act, 7 Edw. 7, c. 31.

(II.) THE PERJURY ACT, 1911.

“ 1 & 2 Geo. 5, c. 6. *An Act to consolidate and simplify the Law relating to Perjury and Kindred offences.* June 29, 1911.”

This Act is not essentially of medical interest at all, for its main object is simply to make the punishment for perjury and false swearing more uniform and more certain, but as it includes in its purview many of the penal sections of Acts I have dealt with, it is necessary here to mention them, though the amount of punishment is a subject I have nowhere particularly insisted upon.

The Acts to which it relates as specified in a schedule are (so far as this work is concerned) the following:—

6 & 7 Will. 4. c. 86, s. 41	..	The Births and Deaths Registration Act, 1836.
10 & 11 Vic. c. 17, s. 89	..	Waterworks Clauses Act, 1847.
15 & 16 Vic. c. 56, s. 16	..	The Pharmacy Act, 1852.
21 & 22 Vic. c. 90, s. 39	..	The Medical Act, 1858.
30 & 31 Vic. c. 84, s. 30	..	The Vaccination Act, 1867.
31 & 32 Vic. c. 121, s. 14	..	The Pharmacy Act, 1868.
37 & 38 Vic. c. 88, s. 40	..	Births and Deaths Registration Act, 1874.
38 & 39 Vic. c. 55, s. 263	..	Public Health Act, 1875.
41 & 42 Vic. c. 33, s. 35	..	The Dentists Act, 1878.
43 & 44 Vic. c. 13, s. 30	..	Births and Deaths Registration Ireland, 1880.
52 & 53 Vic. c. 49, s. 22	..	The Arbitration Act, 1889.
2 Edw. 7, c. 8, s. 8	..	The Cremation Act, 1902.
2 Edw. 7, c. 17, s. 11	..	The Midwives Act, 1902.

(III.) THE ARBITRATION ACT.

" 52 & 53 Vic. c. 49. *An Act for amending and consolidating the Enactments relating to Arbitration.* Aug. 26, 1889."

As I once sat as an arbitrator with Professor Pepper on the other side, and Dr. Mitchell Bruce as umpire on an insurance case, the Act is obviously of interest as a possible means of settling disputes between medical men.

Witnesses can be put on oath and the case proceeds as nearly on the lines of an ordinary court of justice as the knowledge of the arbitrators will permit.

The verdict is delivered under seal in writing ; at least it may be so [it was in our case] and need not be delivered to either side until all fees due to the arbitrator(s) and umpire are settled.

It is practically, if not legally, final.

The sections of the Act itself are too legal to be quoted here.

(IV.) LAW OF EVIDENCE.

" 14 & 15 Vic. c. 99. *An Act to amend the Law of Evidence.* Aug. 7, 1851," has a little personal interest for medical practitioners, for under it it is declared that—

" *Sec. VIII. Every Certificate of the Qualification of an Apothecary which shall purport to be under the Common Seal of the Society of the Art and Mystery of Apothecaries of the City of London shall be received in Evidence in any Court of Justice, and before any Person having by Law or by Consent of Parties Authority to hear, receive, and examine Evidence, without any Proof of the said Seal or of the Authenticity of the said Certificate, and shall be deemed sufficient Proof that the Person named therein has been from the Date of the said Certificate duly qualified to practise as an Apothecary in any Part of England or Wales.*"

I should expect the same would hold of other diplomas and degrees, though I cannot find any Act in which it is stated.

Sec. 3 is also worth quoting in proof of the ordinary statement we all commonly make that no person can be compelled to give evidence against himself ; it runs—

" *Sec. III. But nothing herein contained shall render any Person who in any criminal Proceeding is charged with the Commission of any indictable Offence, or any Offence punishable on summary Conviction, competent or compellable to give Evidence for or against himself or herself, or shall render any Person compellable to answer any Question tending to criminate himself or herself, or shall in any criminal Proceeding render any Husband competent or compellable to give Evidence for or against his Wife, or any Wife competent or compellable to give Evidence for or against her Husband*

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